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2019 SUPPLEMENT VOLUME 4B

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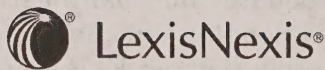
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TITLE 6

EDUCATION

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A.C.R.C. Notes. Uncodified Acts 2015, No. 863, § 1, which is set out as a note in the bound volume, was repealed by Acts 2019, No. 764, § 1.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two

uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019".

6-18-102. Legislative findings — School uniform policy.

(a) The General Assembly hereby finds and determines that the clothes and footwear worn by students in the public schools often preoccupy and distract students from their major purpose for being in school: that of becoming educated in math, science, English, history, and other subjects. The General Assembly further finds that student competition over clothes and footwear has, in several instances, led to violence and injuries during school hours; whereas, in those Arkansas schools that have adopted school uniforms, disparities in student socioeconomic levels are less obvious and disruptive incidents are less likely to occur.

(b)(1) The school district board of directors may refer the issue of a dress code to the qualified electors of the district at any annual school election.

(2) If a majority of the qualified electors of the district voting thereon at the election vote for the adoption of a school uniform policy, the school district board of directors shall prescribe appropriate school uniforms and implement the policy.

(3) If a majority of the qualified electors of the district voting thereon at the election vote against the adoption of a school uniform policy, the school district board of directors may refer the question again to the qualified electors of the district only after a minimum period of one (1) year.

(4)(A) Qualified electors of the district may at any time by petition have the question of implementing a uniform dress code voted upon at the next school election.

(B) The petition shall be signed by not less than five percent (5%) of the qualified electors in the district.

(c) Any school uniform policy adopted by a school district shall provide for individual students to make application to opt out of the uniform requirements with parental consent when no other reasonable alternative placement for the student exists.

(d) Any school district that has adopted and implemented a district policy to require a uniform dress code before the 2000 annual school election shall be exempt from the provisions of this section.

(e)(1) This section does not limit the ability of a school district or a particular school within a district to adopt and implement a school uniform policy.

(2) A school district may implement a school uniform policy without submitting the issue to the electors of the district.

(f) The Division of Elementary and Secondary Education and education service cooperatives shall, when possible, assist public schools by providing information regarding uniform dress codes upon request from public school administrators.

History. Acts 1995, No. 1239, §§ 1-3; 1999, No. 1301, § 1; 2007, No. 617, § 11; 2013, No. 1155, § 16; 2019, No. 910, § 1503.

Amendments. The 2019 amendment substituted "Division of Elementary and Secondary Education" for "Department of Education" in (f).

6-18-103. Selective service registration.

(a)(1) Each local school district and each adult education program shall provide a registration form at least thirty (30) days before the student's eighteenth birthday to any student who is enrolled in the district or the adult education program and who is required to register with the United States Selective Service System in accordance with the Military Selective Service Act, 50 U.S.C. § 3801 et seq.

(2) The district and adult education program shall further provide appropriate instructions for returning completed registration forms to United States Selective Service System personnel.

(b) The superintendent of the local school district and the director of the adult education program shall designate a staff person in each high

school and at the adult education program site to distribute United States Selective Service System registration forms to students as provided in subsection (a) of this section.

(c) The Division of Elementary and Secondary Education shall issue rules to ensure compliance with the provisions of this section and compliance with all federal regulations.

History. Acts 1997, No. 229, § 1; 2019, No. 315, § 241; 2019, No. 910, § 1504.

Amendments. The 2019 amendment by No. 315, in (c), deleted “and regulations” following “rules” and added “and compliance with all federal regulations”.

The 2019 amendment by No. 910 substituted “Division of Elementary and Secondary Education” for “Department of Education” in (c).

6-18-105. Skills and knowledge for preparation of kindergarten children.

(a)(1) The Division of Elementary and Secondary Education shall determine and prepare a list of the skills and knowledge that a child should have in order to be prepared to enter kindergarten.

(2) The list shall be prepared in a manner that will assist parents in preparing their children for kindergarten.

(b)(1) The list shall be available to parents on the Division of Elementary and Secondary Education’s website and from the Division of Elementary and Secondary Education by mail if requested.

(2) The Division of Elementary and Secondary Education shall make reasonable efforts to have the list of skills published in the Happy Birthday Baby Book.

(c)(1) The Department of Human Services shall provide copies of the list to childcare facilities licensed by the Division of Child Care and Early Childhood Education.

(2) The Department of Human Services shall adopt rules requiring childcare facilities licensed by the Division of Child Care and Early Childhood Education each year to distribute the list to the parent of each three-year-old child, four-year-old child, and five-year-old child attending the childcare facility.

(d) Nothing in this section shall be construed to require a child to have a certain level of skill or knowledge before enrolling in kindergarten.

History. Acts 2003, No. 825, § 1; 2019, No. 315, § 242; 2019, No. 910, § 1505.

Amendments. The 2019 amendment by No. 315 deleted “and regulations” following “rules” in (c)(2).

The 2019 amendment by No. 910 deleted “By December 31, 2003” from the beginning of (a)(1) and (c)(2); substituted

“Division of Elementary and Secondary Education’s” for “Department of Education’s” in (b)(1); substituted “Division of Elementary and Secondary Education” for “Department of Education” in (b)(1) and (b)(2); and substituted “Division of Child Care and Early Childhood Education” for “division” in (c)(2).

6-18-107. Enrollment of children of military families — Definitions.

(a) The purpose of this section is to extend laws related to children of active duty members of the uniformed forces under the Interstate Compact on Educational Opportunity for Military Children, § 6-4-301 et seq., to children of all components of the uniformed services in order to remove barriers to educational success that may be experienced by children of military families due to frequent moves and deployment of their parents by:

(1) Facilitating the timely enrollment of children of military families and ensuring the children are not placed at a disadvantage due to difficulty in the transfer of education records from a previous public school, including a public school in another state;

(2) Facilitating the student placement process so children of military families are not disadvantaged by variations in attendance requirements, scheduling, lesson sequencing, grading, course content, and assessment;

(3) Facilitating the qualification and eligibility for enrollment, educational programs, and participation in extracurricular activities;

(4) Facilitating the on-time graduation of children of military families;

(5) Providing for the adoption and enforcement of administrative rules to implement this section;

(6) Providing for the uniform collection and sharing of information between and among public school districts; and

(7) Promoting flexibility and cooperation between the educational system, parents and legal guardians, and students in order to achieve educational success for the student.

(b) As used in this section:

(1) “Activated reserve components” means members of the reserve component of the uniformed services who have received a notice of intent to deploy or mobilize under Title 10 of the United States Code, Title 32 of the United States Code, or state mobilization to active duty;

(2) “Active duty” means full-time duty status in the active, uniformed services of the United States, including without limitation members of the National Guard and Reserve on active duty orders under 10 U.S.C. §§ 1209 and 1210, as they existed on January 1, 2019;

(3) “Deployment” means the period of time six (6) months before a member of the uniformed services’ departure from his or her home station on military orders through six (6) months after return to his or her home station;

(4) “Education records” means an official record, file, or data directly related to a student and maintained by a public school or local education agency, including without limitation a record encompassing all the material kept in a student’s cumulative folder such as:

(A) General identifying data;

(B) Records of attendance and of academic work completed;

- (C) Records of achievement and results of evaluative tests;
 - (D) Health data;
 - (E) Disciplinary status;
 - (F) Test protocols; and
 - (G) Individualized education programs;
- (5)(A) "Extracurricular activity" means a voluntary activity sponsored by a school or local education agency or an organization sanctioned by the local education agency.
- (B) "Extracurricular activity" includes without limitation preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities;
- (6) "Local education agency" means a public authority legally constituted by the state as an administrative agency to provide control of and direction for kindergarten through grade twelve (K-12) public schools;
- (7) "Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the United States Department of Defense or the State of Arkansas;
- (8)(A) "Public school" means a state-supported school or public charter school serving students in prekindergarten or kindergarten through grade twelve (K-12) in Arkansas.
- (B) "Public school" includes without limitation:
- (i) Alternative learning environments;
 - (ii) The Arkansas School for the Blind;
 - (iii) The Arkansas School for the Deaf; and
 - (iv) The Arkansas School for Mathematics, Sciences, and the Arts;
- (9) "Receiving district" means a public school district to which a child of a uniformed services member transitions;
- (10) "Rule" means:
- (A) A written statement that is of general applicability that implements, interprets, or prescribes a policy; or
 - (B) An organizational, procedural, or practice requirement promulgated under the Arkansas Administrative Procedure Act, § 25-15-201 et seq., or any successor law, and includes the amendment, repeal, or suspension of an existing rule;
- (11) "Sending district" means the public school district from which a child of a uniformed services member transitions;
- (12) "Student" means the dependent minor child of a uniformed services member for whom the local education agency receives public funding and who is enrolled in a public school;
- (13) "Transition" means the:
- (A) Formal and physical process of transitioning from public school to public school; or
 - (B) Period of time in which a student moves from a sending district to a receiving district;
- (14) "Uniformed services" means the United States Army, United States Navy, United States Air Force, United States Marine Corps, United States Coast Guard, the National Oceanic and Atmospheric

Administration Commissioned Officer Corps, the United States Commissioned Corps of the Public Health Services, and the state and federal reserve components of each of these bodies; and

(15) "Veteran" means an individual who served in the uniformed services and who was discharged or released from the uniformed services under conditions other than dishonorable.

(c)(1) This subchapter shall apply to minor dependent children of:

(A) Members of the active and activated reserve components of the uniformed services;

(B) Members or veterans of the uniformed services who were severely injured in the line of duty and are medically discharged or retired for a period of one (1) year following the medical discharge or retirement; and

(C) Members of the uniformed services who die while on active duty or as a result of injuries sustained while on active duty for a period of one (1) year following the death.

(2) This subchapter shall not apply to the minor dependent children of:

(A) Inactive members of the National Guard and military reserves;

(B) Retired members of the uniformed services, except as provided under subdivision (c)(1)(B) of this section; and

(C) Other United States Department of Defense personnel and other federal or state agency civilian and contract employees who are not considered members of the uniformed services.

(d)(1) The Interstate Compact on Educational Opportunity for Military Children under § 6-4-301 et seq.:

(A) Is limited to providing transition services for children of active duty members of the uniformed services; and

(B) Excludes provision of services to children of members of the reserve components.

(2)(A) In complying with this section, sending districts and receiving districts shall not require sending and receiving districts outside of the state to provide services to uniformed services families transferring to or from the state.

(B) Sending districts and receiving districts in the state shall make an attempt to coordinate on behalf of children of reserve component members with sending and receiving districts outside of the state under subdivision (d)(2)(A) of this section.

(e)(1) If official copies of a student's education records cannot be released to a parent of a student for purposes of a transition under this section, then the custodian of the student's education records at the sending district shall prepare and furnish to the parent of the student and the receiving district a complete set of unofficial copies of the student's education records, which shall contain uniform information as determined by the Division of Elementary and Secondary Education.

(2) Upon receipt of the unofficial copies of a student's education records by a receiving district under subdivision (e)(1) of this section, and as soon as practicable, a receiving district shall preregister and

place a student based on the information provided in the unofficial education records that is pending validation by the official records.

(3)(A) Simultaneous with the enrollment and provisional placement of a student under subdivision (e)(2) of this section, a receiving district shall request a student's official education records from the sending district.

(B) Upon receipt of this request, the sending district, if it is a district within this state, shall process and furnish the official education records to the receiving district within ten (10) days or within such time as is reasonably determined under division rules.

(f)(1) A student shall furnish his or her required immunization records to a receiving district within thirty (30) days of enrolling in the receiving district or within such time as is reasonably determined under division rules.

(2) For a series of immunizations, initial vaccinations shall be obtained within thirty (30) days or within such time as is reasonably determined under division rules.

(g)(1) A student shall enroll in a receiving district in the same grade level in which he or she was enrolled at the sending district, regardless of the student's age.

(2) A student who has completed a grade level in the sending district shall be eligible for enrollment in the next highest grade level at the receiving district, regardless of the student's age.

(h)(1) If the academic courses are offered and there is space available, when a student transitions under this section before or during a school year, the receiving district shall provisionally honor the placement of the student in academic courses based on the student's enrollment at the sending district and on educational assessments conducted at the sending district.

(2) Academic course placement includes without limitation enrollment in:

- (A) Honors courses;
- (B) The International Baccalaureate Diploma Programme;
- (C) Advanced Placement courses; and
- (D) Academic, technical, and career pathway courses.

(3) A receiving district may perform subsequent evaluations to ensure a student who transitions under this section has been appropriately placed in an academic course.

(i)(1) If the educational programs are offered and there is space available, when a student transitions under this section before or during a school year, the receiving district shall provisionally honor the placement of the student in educational programs based on the student's participation in educational programs at the sending district and on educational assessments conducted at the sending district.

(2) Educational programs include without limitation:

- (A) Gifted and talented programs; and
- (B) English as a second language courses.

(3) A receiving district may perform subsequent evaluations to ensure a student who transitions under this section has been appropriately placed in an educational program.

(j)(1) A receiving district shall provisionally provide services to a student with disabilities under the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq., according to the student's existing individualized education program.

(2) A receiving district:

(A) Shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities under this section; and

(B) May perform subsequent evaluations to ensure a student who transitions under this section has been appropriately placed in the receiving district.

(k) A public school may waive academic course or educational program requirements for students who transition to a receiving district under this section.

(l) If a student whose parent or legal guardian has been called to duty for, is on leave from, or has immediately returned from deployment, the student may be granted additional excused absences at the discretion of the public school in which he or she is enrolled.

(m)(1) Members of the uniformed services shall, if possible, provide advance notice to public schools regarding the enrollment of a student under this section.

(2) When a public school receives notice from a military family under subdivision (m)(1) of this section, the public school shall treat the notice as a provisional enrollment and provide the student with materials regarding academic courses, electives, sports, and other relevant information regarding the public school.

(3) A public school:

(A) Shall consider the anticipated date of enrollment of a student under subdivision (m)(1) of this section in light of class sizes, course conflicts, and the availability of elective courses;

(B) May preregister a student in anticipation of the student's enrollment under subdivision (m)(1) of this section; and

(C) May seek waivers from the State Board of Education to accommodate a student under this section, including without limitation required class ratios.

(n)(1) A student under this section shall receive equitable access to academic courses.

(2)(A) A receiving district may enter academic course requests on behalf of an incoming student under this section based on the student's transcript of information sent by the student's family or the student's sending district.

(B) Special power of attorney relative to the guardianship of a child of a military family is sufficient for purposes of enrollment and all other actions requiring parental participation and consent.

(o)(1) A receiving district shall not charge local tuition to a student who transitions to the receiving district under this section and who has

been placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent.

(2) A student who has been placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent may continue to attend the school in which he or she was enrolled while residing with the custodial parent.

(p) A receiving district shall ensure a student who transitions under this section has the opportunity to participate in extracurricular activities, regardless of application deadlines, and to the extent that the student is otherwise qualified.

(q) In order to ensure the on-time graduation of military students under this section, state and local education agencies shall:

(1) Waive specific courses that are required for graduation if similar coursework has been satisfactorily completed by a transitioning student under the control of another local education agency; and

(2) If a waiver for a specific course under subdivision (q)(1) of this section is denied, the state or local education agency shall provide:

(A) Justification for the denial; and

(B) An alternative means by which the transitioning student can complete the required coursework so that the student can graduate on time.

(r)(1) Public schools shall accept results from:

(A) Exit or end-of-course exams that are required for graduation from the sending district;

(B) National norm-referenced achievement tests; or

(C) Alternative testing.

(2) If a student transitions under this section at the beginning of or during his or her senior year of high school and the student is deemed by the receiving district to be ineligible for graduation after all reasonable alternatives under this section have been considered, the sending district shall award and the receiving district shall accept a diploma for the student if the student meets the graduation requirements of the sending district.

(s) The Commissioner of Elementary and Secondary Education, the State Council, and the Interstate Commission on Educational Opportunity for Military Children under § 6-4-301 et seq., shall provide for coordination among state and local education agencies and military installations under this section.

(t) The division shall require a public school to report the enrollment of a student who is a child of a military family:

(1) In the Arkansas Public School Computer Network; or

(2) If the public school does not report through the Arkansas Public School Computer Network, as established by rule.

(u) The state board shall promulgate rules to implement this section.

History. Acts 2013, No. 514, § 1; 2019, No. 910, § 1506; 2019, No. 939, § 8.

Amendments. The 2019 amendment by No. 910 substituted “Division of Elementary and Secondary Education” for “Department of Education” in the introductory language of (b) [now (t)].

The 2019 amendment by No. 939 substituted “children of military families” for “military dependents” in the section heading; added (a); redesignated former (a) as

(b); deleted former (a)(1) and (a)(2); added (b)(1) through (b)(7); redesignated former (a)(3) as (b)(8); substituted “or kindergarten through grade twelve (K-12)” for “kindergarten, elementary, middle, or secondary grades” in (b)(8)(A); added (b)(9) through (b)(15); inserted (c) through (s); redesignated former (b) and (c) as (t) and (u); and substituted “child of a military family” for “military dependent” in the introductory language of (t).

6-18-108. Continuity of education for public school choice students — Definitions.

(a) As used in this section:

(1) “Nonresident district” means a school district other than a student’s resident district; and

(2) “Resident district” means the school district where the student resides as determined under § 6-18-202.

(b) If a public school choice request is approved by a nonresident district under a provision of law that is later declared unconstitutional by a court or is repealed, the student may continue to attend school in the nonresident district until the student completes his or her secondary education.

(c) A present or future sibling of a student who continues enrollment in the nonresident district under this section may enroll in or continue enrollment in the nonresident district until the sibling completes his or her secondary education, if the district has the capacity to accept the sibling without adding teachers, staff, or classrooms or exceeding the rules and standards established in law.

(d) The enrollment of a student in a nonresident district under this section is subject to:

(1) The nonresident district’s written policies for renewal of the transfer; and

(2) Other provisions of law concerning attendance and enrollment in public schools.

History. Acts 2013, No. 1334, § 1; 2019, No. 315, § 243.

Amendments. The 2019 amendment substituted “rules” for “regulations” in (c).

6-18-109. Student Online Personal Information Protection Act — Definitions.

(a) As used in this section:

(1) “Covered information” means personally identifiable information or materials regarding a public school student in this state, in any media or format, when the information is:

(A) Created or provided by a student or the student’s parent or guardian to an operator in the course of the student’s, parent’s, or guardian’s use of the operator’s website, service, or application;

(B) Created or provided by an employee or agent of a public school, school district, local education agency, or the Division of Elementary and Secondary Education to the operator for public school purposes; or

(C) Gathered by an operator through the operation of the website, service, or application and personally identifies a student, including without limitation a student's:

- (i) First and last name;
- (ii) Email address;
- (iii) Home address;
- (iv) Telephone number;
- (v) Discipline records;
- (vi) Test results;
- (vii) Special education data;
- (viii) Juvenile dependency records;
- (ix) Grades;
- (x) Medical or health records;
- (xi) Social Security number;
- (xii) Biometric information;
- (xiii) Socioeconomic information;
- (xiv) Political affiliations;
- (xv) Religious information;
- (xvi) Student identifiers;
- (xvii) Search activity, photos, voice recordings; or
- (xviii) Geolocation information;

(2)(A) "Operator" means, to the extent that the owner is operating in the capacity defined under this subdivision (a)(2), owner of an internet website, online service, online application, or mobile application with actual knowledge that the website, service, or application is:

- (i) Used primarily for public school purposes;
- (ii) Designed and marketed for public school purposes; and
- (iii) Operating at capacity.

(B) An operator does not include the division, a school district, or an open-enrollment public charter school;

(3) "Public school purpose" means a purpose that customarily takes place at the direction of the public school teacher, administrator, or superintendent to aid in the administration of school activities primarily for the use and benefit of the school, including without limitation:

- (A) Instruction in the classroom or at home;
- (B) Administrative activities; or

(C) Collaboration between student, school personnel, or parents; and

(4)(A) "Targeted advertising" means presenting advertisements to a student when the advertisement is selected based on information obtained or inferred from a student's online behavior, usage of applications, or covered information.

(B) "Targeted advertising" does not include advertising to a student at an online location based on a student's current visit to that

online location or using the search query without the collection and retention of the student's online activities over time.

(b) An operator shall not engage knowingly in the following activities with respect to the website, service, or application:

(1) Target advertising when the targeting of the advertising is based on any covered information that the operator has acquired because of the use of the operator's website, service, or application;

(2)(A) Create or gather covered information obtained by the operator's website, service, or application to compile a profile about a public school student except in furtherance of public school purposes.

(B) Compiling a profile does not include the collection and retention of account registration records or information that remains under the control of a student, parent, public school, or school district;

(3) Sell a public school student's covered information, other than with respect to the purchase, merger, or other acquisition of an operator by another entity, provided that the other entity is subject to the provisions of this section with respect to previously acquired student information that is subject to this section; or

(4) Disclose covered information of a public school student unless the disclosure is:

(A) Done in furtherance of public school purposes or to allow or improve operation and functionality within the student's classroom or school;

(B) Necessary disclosure to:

(i) Ensure legal or regulatory compliance or protect against liability;

(ii) Respond to or participate in the judicial process; or

(iii) Protect the safety or integrity of users or others or the security of the website, service, or application;

(C) Done to a service provider, if the operator contractually:

(i) Prohibits the service provider from using any covered information for any purpose other than providing the contracted service to or on behalf of the operator;

(ii) Prohibits the service provider from disclosing any covered information provided by the operator with subsequent third parties, unless the disclosure is expressly permitted under this section; and

(iii) Requires the service provider to implement and maintain reasonable security procedures and practices as provided under subsection (d) of this section; or

(D) Done for the public school, educational, or employment purpose requested by the student or the student's parent or guardian, provided that the information is not used or further disclosed for any other purpose.

(c) Subsection (b) of this section does not prohibit an operator from using covered information to maintain, develop, support, improve, or diagnose the operator's website, service, or application.

(d) An operator shall:

(1) Implement and maintain reasonable security measures that are appropriate to the nature of the covered information obtained and

protect the covered information from unauthorized access, destruction, use, modification, or disclosure; and

(2) Delete a public school student's covered information within a reasonable time frame if the school or school district requests the deletion of covered information under the control of the public school or school district.

(e) Subdivisions (b)(1), (2), and (4) of this section shall not be construed to prohibit the use or disclosure of covered information with the affirmative consent of the public school, the student, or the student's parent or guardian in response to clear and conspicuous notice of the use or disclosure.

(f) Notwithstanding subdivision (b)(4) of this section, an operator may disclose covered information of a public school student under the following circumstances:

(1) If other provisions of federal or state law require the operator to disclose the covered information and the operator complies with the applicable requirements of federal and state law in protecting and disclosing the covered information;

(2) For legitimate research purposes:

(A) As required by federal or state law and subject to the restrictions under the applicable federal or state law;

(B) As allowed by federal or state law and under the direction of a school, school district, or the division if no covered information is used for advertising or to compile a profile of a public school student; or

(C) As permitted by federal or state law to a state or local educational agency, including a school or school district, for public school purposes; or

(3) To a state or local educational agency, including public schools and school districts, for public school purposes, as permitted by federal or state law.

(g) This section does not prohibit an operator from:

(1) Using aggregated or deidentified covered information of a public school student as follows:

(A) Within the operator's website, service, or application or other websites, services, or applications owned by the operator to develop or improve educational products; or

(B) To demonstrate the effectiveness of the operator's website, service, or application, including the operator's marketing of the website, service, or application; or

(2) Sharing aggregated or deidentified covered information of a public school student for the development or improvement of educational websites, services, or applications.

(h) This section does not limit:

(1) The authority of a law enforcement agency to obtain any content or information from an operator that is authorized by law or pursuant to an order of a court of competent jurisdiction;

(2) The ability of an operator to use student data, including covered information, for adaptive learning or customized student learning purposes;

(3) Internet service providers from providing internet connectivity to public schools, school districts, or students;

(4) The ability of an operator to use recommendation engines to recommend additional content or services to a student within an operator's website, service, or application without the response being determined in whole or in part by payment or other consideration from a third party;

(5) The ability of an operator to respond to a student's request for information or for feedback without the information or response being determined in whole or in part by payment or other consideration from a third party; or

(6) The ability of an operator to use or retain student information to ensure legal or regulatory compliance or to take precautions against liability.

(i) This section does not apply to general audience websites, services, or applications, even if login credentials created on the operator's website, service, or application are used to access those general audience websites, services, or applications.

(j) This section does not impose a duty on a provider of an:

(1) Electronic store, gateway, marketplace, or other means of purchasing or downloading software or applications to review or enforce compliance with this section on those software or applications; or

(2) Interactive computer service, as defined in the Telecommunications Act of 1996, 47 U.S.C § 230, to review or enforce compliance with this section by a third-party content provider.

(k) This section does not limit the ability of a student or the student's parent or guardian to download, export, transfer, or otherwise save or maintain his or her own student data or documents.

History. Acts 2015, No. 1196, § 1; 2019, No. 910, §§ 1507-1509.

Amendments. The 2019 amendment substituted "the Division of Elementary and Secondary Education" for "Department of Elementary and Secondary Education" for "Department of Education" in (a)(1)(B); substituted "Division of Elementary and Secondary Education" for "Department of Education" in (a)(2)(B); and substituted "division" for "department" in (f)(2)(B).

6-18-110. Reports by mandated reporters — Failure to notify by mandated reporter — Making a false report.

(a) Each of the following persons shall notify law enforcement if he or she has a good faith belief that there is a serious and imminent threat to the public based on a threat made by an individual regarding violence in or targeted at a school that has been communicated to the person in the course of his or her professional duties:

- (1) A childcare worker or foster care worker;
- (2) A coroner;
- (3) A daycare center worker;
- (4) A dentist;
- (5) A dental hygienist;
- (6) A domestic abuse advocate;
- (7) A domestic violence shelter employee;

- (8) A domestic violence shelter volunteer;
- (9) An employee of the Department of Human Services;
- (10) An employee working under contract for the Division of Youth Services;
- (11) A foster parent;
- (12) A judge;
- (13) A law enforcement official;
- (14) A licensed nurse;
- (15) Medical personnel who may be engaged in the admission, examination, care, or treatment of a person;
- (16) A mental health professional or paraprofessional;
- (17) An osteopath;
- (18) A peace officer;
- (19) A physician;
- (20) A prosecuting attorney;
- (21) A resident intern;
- (22) A public or private school counselor;
- (23) A school official;
- (24) A social worker;
- (25) A surgeon;
- (26) A teacher;
- (27) A court-appointed special advocate program staff member or volunteer;
- (28) A juvenile intake or probation officer;
- (29) A clergy member, including a minister, priest, rabbi, accredited Christian Science practitioner, or other similar functionary of a religious organization, or a person reasonably believed to be so by the individual consulting him or her unless the clergy member acquires knowledge of the serious and imminent threat of violence in or targeted at a school through a communication that is required to be kept confidential pursuant to the religious discipline of the relevant denomination or faith;
- (30) An employee of a child advocacy center or a child safety center;
- (31) An attorney ad litem in the course of his or her duties as an attorney ad litem;
- (32)(A) A sexual abuse advocate or sexual abuse volunteer who works with a victim of sexual abuse as an employee of a community-based victim service or mental health agency such as the Safe Place program of the National Safe Place Network, United Family Services, Inc., or the Centers for Youth and Families, Inc.
- (B) A sexual abuse advocate or sexual abuse volunteer includes a paid or volunteer sexual abuse advocate who is based with a local law enforcement agency;
- (33) A rape crisis advocate or rape crisis volunteer;
- (34)(A) A child abuse advocate or child abuse volunteer who works with a child victim of abuse or maltreatment as an employee of a community-based victim service or a mental health agency such as the Safe Place program of the National Safe Place Network, United Family Services, Inc., or the Centers for Youth and Families, Inc.

(B) A child abuse advocate or child abuse volunteer includes a paid or volunteer sexual abuse advocate who is based with a local law enforcement agency;

(35) A victim or witness coordinator;

(36) A victim assistance professional or victim assistance volunteer;

(37) An employee of the Crimes Against Children Division;

(38) An employee of a reproductive healthcare facility;

(39) A volunteer at a reproductive healthcare facility; and

(40) An individual not otherwise identified in this subsection who is engaged in performing his or her employment duties with a nonprofit charitable organization other than a nonprofit hospital.

(b) A person listed as a mandated reporter under subsection (a) of this section shall:

(1) Make every attempt to immediately notify law enforcement of the serious and imminent threat to the public; and

(2) Notify law enforcement within twenty-four (24) hours of learning of the serious and imminent threat to the public.

(c)(1) A person listed as a mandated reporter under subsection (a) of this section commits the offense of failure to notify by a mandated reporter in the first degree if he or she knowingly fails to notify law enforcement of a serious and imminent threat of violence in or targeted at a school that has been communicated to him or her in the course of his or her professional duties.

(2) Failure to notify by a mandated reporter in the first degree is a Class A misdemeanor.

(d)(1) A person listed as a mandated reporter under subsection (a) of this section commits the offense of failure to notify by a mandated reporter in the second degree if he or she recklessly fails to notify law enforcement of a serious and imminent threat of violence in or targeted at a school that has been communicated to him or her in the course of his or her professional duties.

(2) Failure to notify by a mandated reporter in the second degree is a Class C misdemeanor.

(e)(1) A person commits the offense of making a false report under this section if he or she purposely makes a report containing a false allegation to law enforcement knowing the allegation to be false.

(2) The first offense of making a false report under subdivision (e)(1) of this section is a Class A misdemeanor.

(3) A subsequent offense of making a false report under subdivision (e)(1) of this section is a Class D felony.

(f) Law enforcement may file a petition in the appropriate court seeking imposition of penalties for a violation of this section.

(g) A person who notifies law enforcement, in good faith, of a serious and imminent threat of violence in or targeted at a school that has been communicated to him or her in the course of his or her professional duties is immune from civil or criminal liability.

6-18-111. School safety and crisis line.

(a)(1) The University of Arkansas for Medical Sciences Psychiatric Research Institute shall establish and operate a pilot program that creates a school safety and crisis line to be known as “ARSafeSchools” that can be accessed by the following means, including without limitation:

- (A) Telephone;
- (B) Text message; and
- (C) Smartphone application.

(2) Participation in the pilot program established under subdivision (a)(1) of this section shall be voluntary for public schools in this state.

(b) The school safety and crisis line under this section shall:

(1) Provide a means for a student to anonymously report:

(A) Unsafe, violent, or criminal activities or the threat of unsafe, violent, or criminal activities at, near, or concerning a public school;

(B) Incidents of bullying, harassment, or hazing, including without limitation conduct described in § 6-18-514;

(C) Incidents of physical or sexual abuse committed against a student by:

- (i) Another student;
- (ii) A school employee;
- (iii) A school volunteer; or

(iv) Any other person if the physical or sexual abuse occurred at a public school or a school-sponsored event;

(D) Thoughts of suicide experienced by the student or by another individual whom the student knows;

(E) Feelings experienced by the student of:

- (i) Stress;
- (ii) Depression; or
- (iii) Anxiety;

(F) Issues involving drug abuse or alcohol abuse, or both, regarding the student or another individual whom the student knows;

(G) Issues with addiction faced by the student or another individual whom the student knows;

(H) Domestic violence experienced by the student or by another individual whom the student knows;

(I) Infliction of self-harm by the student or by another individual whom the student knows;

(J) Feelings of grief or loss, or both; and

(K) Other behaviors, incidents, actions, or threats that the University of Arkansas for Medical Sciences Psychiatric Research Institute may determine are important for a student to report under this section;

(2) Provide crisis intervention, including without limitation suicide prevention services, to students experiencing emotional or psychiatric distress;

(3) Operate twenty-four (24) hours per day, seven (7) days per week; and

(4) Begin operation at a time and in phases determined by the University of Arkansas for Medical Sciences Psychiatric Research Institute to allow time for the establishment of the school safety and crisis line and the training of personnel to carry out the operations of the school safety and crisis line under this section.

(c)(1) Personnel operating the school safety and crisis line shall, when necessary or as required by law, promptly forward a report received under subsection (b) of this section to appropriate:

(A) School officials; or

(B) Law enforcement agencies.

(2) An individual who acts in good faith under this section while operating the school safety and crisis line shall not be liable for civil damages for an act or omission taken in good faith while operating the school safety and crisis line so long as the act or omission does not constitute gross negligence or willful misconduct.

(d) The University of Arkansas for Medical Sciences Psychiatric Research Institute shall:

(1) Establish, operate, maintain, provide training, and make all decisions regarding a school safety and crisis line under this section;

(2) Collaborate with public schools for the implementation and use of the school safety and crisis line under this section; and

(3) Use funding from the ARSafeSchools Fund under § 6-18-112 to provide training for personnel regarding the operation of the school safety and crisis line under this section.

(e) Messages, recordings, and any personal information received by an individual operating a school safety and crisis line under this section are confidential and not subject to disclosure under the Freedom of Information Act of 1967, § 25-19-101 et seq.

History. Acts 2019, No. 1064, § 2.

A.C.R.C. Notes. Acts 2019, No. 1064, § 1, provided: "Legislative findings. The General Assembly finds that:

"(1) A survey of thirty-nine (39) states conducted by the Centers for Disease Control and Prevention from September 2016 to December 2017 found that Arkansas had the:

"(A) Highest percentage of high school students who had been bullied on school property;

"(B) Highest percentage of high school students who had ever been physically forced to have sexual intercourse;

"(C) Highest percentage of high school students who had experienced sexual violence by anyone;

"(D) Highest percentage of high school students who had experienced physical dating violence;

"(E) Highest percentage of high school students who had felt sad or hopeless;

"(F) Highest percentage of high school students who had seriously considered attempting suicide;

"(G) Highest percentage of high school students who had made a plan about how they would attempt suicide;

"(H) Second highest percentage of high school students who had actually attempted suicide;

"(I) Second highest percentage of high school students whose suicide attempt had resulted in an injury, poisoning, or overdose that had to be treated by a doctor or nurse;

"(J) Second highest percentage of high school students who had been threatened or injured with a weapon on school property;

“(K) Second highest percentage of high school students who had been involved in a physical fight;

“(L) Fourth highest percentage of high school students who had been electronically bullied; and

“(M) Fifth highest percentage of high school students who did not go to school because they had felt unsafe at school or on their way to or from school;

“(2) A recent study by the nonprofit research organization Child Trends found

that fifty-six percent (56%) of Arkansas children have undergone at least one (1) adverse childhood experience, the highest percentage of any other state in the nation; and

“(3) This act is necessary to respond to and counter these trends and to provide an avenue for students in Arkansas to report incidents that cause or have the potential to cause physical, mental, or emotional damage to students.”

6-18-112. School safety and crisis line fund — Report.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a miscellaneous fund to be known as the “ARSafeSchools Fund”.

(b) The fund shall consist of:

(1) Moneys obtained from private grants or other sources that are designated to be credited to the fund; and

(2) Any other funds authorized or provided by law.

(c) The fund shall be used by the University of Arkansas for Medical Sciences Psychiatric Research Institute solely to create and maintain the ARSafeSchools school safety and crisis line under § 6-18-111.

(d) Moneys remaining in the fund at the end of each fiscal year shall carry forward and be made available for the purposes stated in this section in the next fiscal year.

(e) The University of Arkansas for Medical Sciences Psychiatric Research Institute is not required to implement provisions of this section if the ARSafeSchools school safety and crisis line under § 6-18-111 is not funded.

(f)(1) The University of Arkansas for Medical Sciences Psychiatric Research Institute shall submit an annual report containing the following information to the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee:

(A) The balance of the fund as of the reporting date;

(B) A list of administrative costs paid for from the fund, including without limitation salaries, pensions, and packages;

(C) The total revenue received by the fund during the reporting period; and

(D) A detailed description of steps taken to create and implement the ARSafeSchools school safety and crisis line.

(2) The annual report required under this subsection shall be submitted by January 1 and July 1 of each year.

History. Acts 2019, No. 1064, § 2.

SUBCHAPTER 2 — ATTENDANCE

SECTION.

- 6-18-201. Compulsory attendance — Exceptions.
- 6-18-202. Age and residence for attending public schools — Definitions.
- 6-18-203. Attendance in district other than district of residence.
- 6-18-204. Attendance in another district — Conditions.
- 6-18-205. Attendance in another district — Liability.
- 6-18-207. Minimum age for enrollment in public school.
- 6-18-208. Requirements for enrollment in public school — Exceptions.
- 6-18-213. Attendance records and reports generally.

SECTION.

- 6-18-214. Records of students leaving school without graduating.
- 6-18-215. School enrollment census — Determining student drop-out rates.
- 6-18-222. Penalty for unexcused absences — Revocation of driving privilege — Definition.
- 6-18-223. Credit for college courses.
- 6-18-227. Arkansas Opportunity Public School Choice Act.
- 6-18-230. Minimum age for enrolling in prekindergarten.
- 6-18-232. Enrollment of private school or home school students.
- 6-18-233. School choice for children in foster care — Definition.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

6-18-201. Compulsory attendance — Exceptions.

(a) Under the penalty for noncompliance set by law, every parent, legal guardian, person having lawful control of the child, or person standing in loco parentis residing within the State of Arkansas and having custody or charge of a child five (5) years of age through seventeen (17) years of age on or before the date established in § 6-18-207 for the minimum age for enrollment in public school shall enroll and send the child to a public, private, or parochial school or provide a home school for the child, as described in § 6-15-501 et seq., with the following exceptions:

(1)(A) A parent, legal guardian, person having lawful control of a child, or person standing in loco parentis residing within the state and having custody or charge of the child may elect for the child not to attend kindergarten if the child will not be six (6) years of age on

the date established in § 6-18-207 for the minimum age for enrollment in public school of that school year.

(B)(i) If an election is made under subdivision (a)(1)(A) of this section, the parent, legal guardian, person having lawful control of the child, or person standing in loco parentis shall file a signed kindergarten waiver form with the local school district administrative office.

(ii) The kindergarten waiver form shall be prescribed by rule of the Division of Elementary and Secondary Education.

(C) Upon the filing of the kindergarten waiver form, the child shall not be required to attend kindergarten during that school year;

(2) A child who has received a high school diploma or its equivalent as determined by the State Board of Education is not subject to the attendance requirement under this section;

(3) A child sixteen (16) years of age or older who is enrolled in a postsecondary vocational-technical institution, a community college, or a two-year or four-year institution of higher education is not subject to the attendance requirement under this section; and

(4) A child sixteen (16) years of age or older who is enrolled in an adult education program under subsection (b) of this section or in the Arkansas National Guard Youth Challenge Program is not subject to the attendance requirement under this section.

(b) A local school district may grant a waiver of the attendance requirement to any student sixteen (16) years of age or seventeen (17) years of age to enroll in an adult education program only after all of the following requirements have been met:

(1) The student makes formal application to the school district for a waiver to enroll in an adult education program;

(2)(A) After formal application and before any further action on the application, the student shall be administered either a basic skills test or a high school equivalency practice test under standardized testing conditions by a public school official designated by the school and shall score an appropriate score as determined by the Adult Education Section on the basic skills test or a passing score on all areas of the official high school equivalency practice test.

(B) Provided, however, that the minimum test scores shall not be required of any student who is subject to the attendance requirement of this section but who was not enrolled in any school district during the previous school year;

(3) The student and the student's parent, legal guardian, person having lawful control of the child, or person standing in loco parentis meet with the school counselor to discuss academic options open to the student;

(4) The school district determines that the student is a proper candidate for enrollment in adult education, contingent upon approval by the appropriate adult education program;

(5) The adult education program reviews the student's school and testing records and agrees to admit the student into the adult education program;

(6) The adult education program shall report attendance of all sixteen-year-old and seventeen-year-old enrollees to the sending school district on at least a monthly basis;

(7)(A) The adult education program shall require for continued enrollment a minimum of twenty (20) hours per week of class attendance and instruction.

(B) Provided, however, that a minimum of ten (10) hours shall be required for any student who is employed for thirty (30) hours or more each week;

(8) The student, the student's parent, legal guardian, person having lawful control of the child, or person standing in loco parentis, and the administrative head of the adult education program agree in writing that the student will attend the requisite number of hours per week and maintain appropriate conduct as outlined in the local adult education program student handbook;

(9) In the event that a more appropriate assessment test or testing and assessment mechanism shall be developed to determine a reasonable level of competency for success at the adult education level, that test or mechanism shall be substituted, with the approval of the Adult Education Section, for the tests required in subdivision (b)(2) of this section;

(10) In the event that a student does not attend class as mandated in this subsection or make reasonable progress toward the completion of the adult education curriculum, the student shall reenroll in a public school within five (5) days from the date the student is released from the adult education program; and

(11) The requirements in this subsection shall not apply to students enrolled in a private, parochial, or home school in the state.

(c) Students sixteen (16) years of age or seventeen (17) years of age enrolled in a private, parochial, or home school who desire to enroll in an adult education program shall meet the following requirements:

(1)(A) Students shall apply for enrollment to the adult education program.

(B) A student enrolled in a private or parochial school shall provide a letter from the principal or administrator of the private or parochial school to verify enrollment and shall score 8.5 grade level or above on the Test for Adult Basic Education or a minimum score of four hundred fifty (450) on each section and a minimum composite score of four hundred ninety (490) on the GED practice test.

(C) A student that is home schooled shall provide a notarized copy of the notice of intent to home school provided to the superintendent of the local school district as required by § 6-15-503;

(2) The student and the student's parent, legal guardian, person having lawful control of the child, or person standing in loco parentis shall meet with the appropriate staff of the adult education program to discuss academic options open to the student;

(3) The adult education program administrators shall review the student's school and testing records before allowing admission to an adult education program;

(4)(A) Except as provided in subdivision (c)(4)(B) of this section, the adult education program shall require for continued enrollment a minimum of twenty (20) hours per week of class attendance and instruction.

(B) A minimum of ten (10) hours shall be required for any student who is employed for thirty (30) hours or more each week;

(5) The student, the student's parent, legal guardian, person having lawful control of the child, or person standing in loco parentis, and the administrative head of the adult education program agree in writing that the student will attend the requisite number of hours per week and maintain appropriate conduct as outlined in the local adult education program student handbook;

(6) In the event that a student does not attend class as mandated in this subsection or make reasonable progress toward the completion of the adult education curriculum, the student shall reenroll in either a public, private, parochial, or home school within five (5) days from the date that the student is released from the adult education program; and

(7) If a home school student is accepted into the adult education program, the student's parent, legal guardian, person having lawful control of the child, or person standing in loco parentis shall send written notification to the local public school superintendent of his or her intent to participate in the adult education program.

(d) Students age sixteen (16) or above enrolled in a private, parochial, or home school who desire to take the GED test shall meet the following requirements:

(1) A student shall not be required to obtain permission or approval from any official in a public school district before being allowed to take the test;

(2) A student enrolled in a private or parochial school shall provide a letter from the principal or administrator of the private or parochial school to verify enrollment;

(3) A student enrolled in a home school shall provide a notarized copy of the notice of intent to home school provided to the superintendent of the local school district as required by § 6-15-503; and

(4) A student enrolled in a private, parochial, or home school must achieve at least the minimum official GED practice test scores.

(e)(1) Nothing in this section shall prohibit a public school district from continuing with an adult education program to provide educational services to sixteen-year-olds and seventeen-year-olds enrolled in public school if a contract is negotiated between the district and the adult education program that includes:

(A) Financial considerations for serving the students enrolled in the public school districts; and

(B) Accountability measures to ensure monitoring of student progress and attendance.

(2) Any contract for services by an adult education program for sixteen-year-olds and seventeen-year-olds shall be submitted to the Adult Education Section for final approval.

(3) Any student served by an adult education program under a contractual arrangement as described in this subsection shall not be counted in any enrollment numbers reported by the adult education programs for state or federal funding.

(f) Any child who will be six (6) years of age on or before October 1 of the school year of enrollment and who has not completed a state-accredited kindergarten program shall be evaluated by the district and may be placed in the first grade if the results of the evaluation justify placement in this first grade and the child's parent agrees with placement in the first grade. Otherwise, the child shall be placed in kindergarten.

History. Acts 1983 (1st Ex. Sess.), No. 60, § 3; 1985, No. 1029, § 2; 1985 (1st Ex. Sess.), No. 40, § 1; 1985 (1st Ex. Sess.), No. 42, § 1; A.S.A. 1947, §§ 80-1503, 80-1503.4; Acts 1987, No. 319, § 1; 1989, No. 598, § 1; 1991, No. 320, § 1; 1994 (2nd Ex. Sess.), No. 30, § 1; 1994 (2nd Ex. Sess.), No. 31, § 1; 1995, No. 837, §§ 1, 2; 1997, No. 1148, § 1; 1997, No. 1230, § 1; 1999, No. 570, § 1; 2001, No. 1514, § 1; 2001, No. 1535, § 1; 2001, No. 1659, § 1; 2003, No. 604, §§ 1-3; 2009, No. 215, § 1; 2009, No. 376, § 36; 2015, No. 1115, § 5; 2019, No. 756, §§ 1-6; 2019, No. 910, §§ 139-142.

Amendments. The 2019 amendment by No. 756 substituted "legal guardian, person having lawful control of the child, or person standing in loco parentis" for "guardian, or other person" in the introductory language of (a) and made a similar change in (a)(1)(A); in (a)(1)(B)(i), inserted "under subdivision (a)(1)(A) of this section" and substituted "legal guardian,

person having lawful control of the child, or person standing in loco parentis" for "guardian, or other person having custody or charge of the child"; added "under this section" in (a)(2) and (a)(3); deleted (a)(4)(B) and redesignated (a)(4)(A) as (a)(4); added "under this section" in (a)(4); substituted "legal guardian, person having lawful control of the child, or person standing in loco parentis" for "guardians, or persons in loco parentis" in (b)(3), (b)(8), (c)(2), and (c)(5); in (c)(7), substituted "legal guardian" for "guardian" and inserted "person having lawful control of the child"; and made stylistic changes.

The 2019 amendment by No. 910 substituted "Division of Elementary and Secondary Education" for "Department of Education" in (a)(1)(B)(ii); substituted "Adult Education Section" for "Adult Education Division of the Department of Career Education" in (b)(2)(A) and (b)(9); and substituted "Adult Education Section" for "Department of Career Education" in (e)(2).

6-18-202. Age and residence for attending public schools — Definitions.

(a) As used in this section:

(1) "Reside" means to be physically present and to maintain a permanent place of abode for an average of no less than four (4) calendar days and nights per week for a primary purpose other than school attendance;

(2) "Resident" means a student whose parents, legal guardians, persons having legal, lawful control of the student under order of a court, or persons standing in loco parentis reside in the school district;

(3) "Residential address" means the physical location where the student's parents, legal guardians, persons having legal, lawful control of the student under order of a court, or persons standing in loco parentis reside; and

(4) "In loco parentis" means relating to the responsibility to undertake the care and control of another person in the absence of:

- (A) Supervision by the person's parent or legal guardian; and
- (B) Formal legal approval.

(b)(1) The public schools of any school district in this state shall be open and free through completion of the secondary program to all persons in this state between five (5) and twenty-one (21) years of age whose parent, legal guardian, person having lawful control of the person, or person standing in loco parentis resides within the school district and to all persons between those ages who have been legally transferred to the district for education purposes.

(2) For purposes of this section, a student may use the residential address of a legal guardian, person having legal, lawful control of the student under order of a court, or person standing in loco parentis only if the student resides at the same residential address and if the guardianship or other legal authority is not granted solely for educational needs or school attendance purposes.

(3) A school district may require a parent, foster parent, legal guardian, person having lawful control of the student, or person standing in loco parentis who enrolls a student in a school district to sign a statement under oath attesting to his or her residential address or to provide other proof that a student is a resident of the school district as defined by this section.

(4) A foster child may remain enrolled in a school district in this state under § 9-28-113 even if the foster home or placement is located outside the boundaries of the school district.

(c) Any person eighteen (18) years of age or older may establish a residence separate and apart from his or her parent, legal guardian, person having lawful control of the person, or person standing in loco parentis for school attendance purposes.

(d) In order for a person under eighteen (18) years of age to establish a residence for the purpose of attending the public schools separate and apart from his or her parent, legal guardian, person having lawful control of the person, or person standing in loco parentis, the person is required to reside in the district for a primary purpose other than that of school attendance.

(e)(1) A school district shall not admit for ten (10) school days or more a student who is not a resident of the school district or is not otherwise entitled by law to attend the school district.

(2)(A) A school district that determines that a student who resides within its boundaries is unlawfully attending another school district shall send written notification to the superintendent of the other school district that the student is unlawfully attending the school district.

(B) The written notification to the superintendent shall include a reasonable description of the location of the residence, including a street address if available, and other information that enables the school district to determine that the student is a resident of the school district.

(3)(A) The school district that receives the notification under subdivision (e)(2) of this section shall immediately investigate and determine which school district the student is required to attend.

(B) The school district conducting the investigation shall:

(i)(a) Complete the investigation within ten (10) business days after receiving the written notice.

(b) The school district conducting the investigation may extend the investigation ten (10) business days in a case that involves five (5) or more students by submitting written notice within the first ten (10) business days of the investigation to the school district that submitted the notification under subdivision (e)(2) of this section;

(ii) Make a determination as to which school district the student is required to attend; and

(iii) Send a written report to the school district that submitted the notification, in writing, of the findings of the investigation and the documentation supporting its determination.

(4) A student who is determined to be unlawfully attending a school not within the student's resident district shall be immediately barred from attending the nonresident school district.

(5)(A) The school district that submitted the notification may within five (5) days after receiving the written report, appeal the decision of the school district that conducted the investigation.

(B) The appeal shall be made to the Division of Elementary and Secondary Education.

(C) The school district that conducted the investigation shall have the burden of proof in proving that the student is entitled to attend its school.

(6)(A) The division shall promulgate rules to establish the procedure for a division hearing officer to investigate the appeal and conduct a hearing.

(B) The division hearing officer may compel disclosure of information from both of the school districts in his or her duties.

(C)(i) The decision of the division hearing officer may be appealed by either school district to the circuit court of the county where the school district that is appealing the decision is located.

(ii) The circuit court shall affirm the decision of the division hearing officer if it is supported by substantial evidence.

(f) Any person who knowingly gives a false residential address for purposes of public school enrollment is guilty of a violation and subject to a fine not to exceed one thousand dollars (\$1,000).

(g) This section shall not be construed to restrict a student's ability to participate in a tuition agreement with a nonresident school district or to officially transfer to another school district pursuant to the Public School Choice Act of 2015, § 6-18-1901 et seq.

History. Acts 1987, No. 466, § 1; 1987, No. 591, § 1; 1989, No. 895, § 1; 1999, No. 391, § 9; 1999, No. 663, § 1; 2005, No. 1994, § 64; 2005, No. 2121, § 6; 2009, No. 1310, §§ 1, 2; 2013, No. 1227, § 3; 2015, No. 1094, § 1; 2019, No. 756, §§ 7-11; 2019, No. 910, §§ 1510, 1511.

Amendments. The 2019 amendment

by No. 756 added (a)(4); substituted “parent, legal guardian, person having lawful control of the person, or person standing in loco parentis resides” for “parents, foster parents, legal guardians, or other persons having lawful control of the person under an order of a court reside” in (b)(1); substituted “A” for “Any” and “person having lawful control of the student, or person standing” for “or other person” in (b)(3); substituted “parent, legal guardian, person having lawful control of the person, or person standing in loco parentis” for “parents or guardians” in (c); and substituted

“parent, legal guardian, person having lawful control of the person, or person standing in loco parentis, the person is required to” for “parents, guardians, or other persons having lawful control of him or her under an order of a court, the person must actually” in (d).

The 2019 amendment by No. 910 substituted “Division of Elementary and Secondary Education” for “Department of Education” in (e)(5)(B); and substituted “division” for “department” in (e)(6)(A) twice and in (e)(6)(B).

6-18-203. Attendance in district other than district of residence.

(a)(1) Except as provided in subdivision (a)(2) of this section, when any person owns a tract of land on which the person resides and which tract of land is located partially in one (1) school district and partially in another, the school-age children of that person shall attend school in the school district where the residence is located.

(2) When a person owned an undivided tract of land on which that person domiciled for ten (10) or more years before August 13, 2001, and which undivided tract of land is located partially in one (1) school district and partially in another, the school-age children of that person, and those of his or her successors in title, shall be eligible to attend the school in either of the districts regardless of the location of the home on the property.

(b)(1) A child or ward of a person who before April 1, 2009, is at least a half-time employee of a public school district in this state or is a full-time employee of an education service cooperative and is a resident of another school district in this state may enroll in and attend school in:

(A) The school district in which the parent or guardian resides;

(B) The school district in which the parent or guardian is at least a half-time employee of that public school district; or

(C) Any school district located in the county where the main office of the education service cooperative is located.

(2) A child or ward of a person who on or after April 1, 2009, is a full-time employee of a public school district or an educational service cooperative and is a resident of another school district in this state may enroll in and attend school in:

(A) The school district in which the parent or guardian resides;

(B) The school district in which the parent or guardian is a full-time employee of that public school district; or

(C) Any school district located in the county where the main office of the educational service cooperative is located.

(3)(A) A student enrolled in kindergarten through grade eight (K-8) under subdivision (b)(1) or subdivision (b)(2) of this section shall be entitled to continue attending school in the enrolled school district,

regardless of a change to the employment status of the parent or guardian, until the end of the school year if:

(i) The parent or guardian was employed by the school district or education service cooperative for a minimum of one hundred twenty (120) days before leaving employment; and

(ii) The student maintains uninterrupted enrollment in the school district and is not expelled after the parent or guardian of the student is no longer employed by the school district or education service cooperative.

(B) A student enrolled in grade nine through twelve (9-12) under subdivision (b)(1) or subdivision (b)(2) of this section shall be entitled to continue attending school in the enrolled school district, regardless of change to the employment status of the parent or guardian, through the completion of the secondary program, if:

(i) The parent or guardian was employed by the school district or education service cooperative for a minimum of three (3) consecutive contract years, with a minimum of one hundred twenty (120) contract days each year, before leaving employment; and

(ii) The student maintains uninterrupted enrollment in the school district and is not expelled after the parent or guardian of the student is no longer employed by the school district or education service cooperative.

(4) A nonenrolled sibling of a student who attends a nonresident school district under this subsection shall have no right to future enrollment based on the privilege of enrollment extended to his or her sibling if the parent or guardian is no longer a full-time employee of the school district or education service cooperative.

(5)(A)(i) The General Assembly recognizes and embraces the responsibility of the state to promote desegregation of its schools and finds that this enactment affects such a limited class of students that desegregation will not be impeded.

(ii) If, however, unforeseen circumstances result in a finding by a court that a school district is unlawfully segregated in whole or in part as a result of these provisions, the provisions in this subsection shall not apply to the children or wards of teachers in that district.

(B) Therefore, the provisions in this subsection shall not apply to the children or wards of those teachers who reside in school districts that may hereafter be found by a court to be unlawfully segregated if the finding is based upon segregation that was caused in whole or in part by the effects of these provisions.

(c) When any employee of the Division of Correction lives on division property or will live on division property as the result of a transfer from a unit of the division to another unit, the children or wards of the employee may complete their education in the school district in which they are enrolled at the time the parent or guardian is transferred.

(d) Any child and that child's sibling or siblings currently attending a nonresident school under subsection (a) of this section shall be allowed to complete all remaining school years at the nonresident district or may attend the resident district if he or she so chooses.

(e)(1) When a parent or guardian who while on active duty in or serving in the reserve component of a branch of the United States Armed Forces or National Guard relocates within the state due to a mobilization, deployment, or available military housing, the children of the parent or guardian may:

(A) Continue attending school in the school district the children were attending before the relocation; or

(B) Attend school in the school district where the children have relocated.

(2) A child enrolled in a school district under this subsection may complete all remaining school years at the enrolled school district, regardless of mobilization, deployment, or military status of the parent or guardian.

History. Acts 1983, No. 822, § 1; A.S.A. 2011, No. 981, § 7; 2017, No. 1065, § 1; 1947, § 80-1568; Acts 1987, No. 624, § 1; 2019, No. 910, § 684.
1991, No. 915, § 1; 1993, No. 1105, § 1; **Amendments.** The 2019 amendment, 1995, No. 726, § 1; 1997, No. 1304, § 1; in (c), substituted “Division of Correction” 1999, No. 947, § 1; 2001, No. 1207, § 1; for “Department of Correction”, and “division” for “department” three times. 2003, No. 144, § 1; 2007, No. 379, § 1; 2007, No. 617, § 12; 2009, No. 1368, § 1;

6-18-204. Attendance in another district — Conditions.

(a) The title of this section shall be “An Act Making It Legal for a Student Living in One School District to Attend School in Another School District under Specified Conditions”.

(b) A student may attend school in another district under the following conditions:

(1) A student in grades nine through twelve (9-12) inclusive may attend school in another district for the purpose of enrolling for courses that will constitute not more than fifty percent (50%) of the classes taken by him or her during the school day;

(2) Such classes shall be limited to those that are not offered by the student’s home district and are required by the student to meet his or her educational objectives;

(3) In order to qualify for such attendance, the student shall file a projected course of study with his or her principal or school counselor before enrollment in another school, and subsequent enrollment may be entered into only after it is determined that the desired courses cannot be taken in the home district;

(4) The resident district of a student taking advantage of the provisions of this section shall pay tuition to the district that the student attends in an amount not less than a proportion of the home district’s state foundation funding per student equal to a ratio that the number of classes taken by a student outside his or her home district bears to the total number of classes taken by the student; and

(5)(A) A student wishing to take advantage of the provisions of this subsection must have the permission of the receiving district in order to enroll in that district.

(B) The amount of tuition shall be agreed upon by both districts before enrollment in the receiving district, except that if an agreement cannot be reached by the opening date of the receiving school, an appeal shall be made to the Assistant Director for Public School Finance and Administrative Support of the Division of Elementary and Secondary Education within thirty (30) days from the opening date of school, and his or her decision shall be final.

(C) Under these conditions, the student may enroll at the beginning date of school in the receiving district.

(c)(1) A student may attend school in another district for the purposes of enrolling for alternative education programs, secondary area vocational centers, or community-based education programs for which the resident district has entered into a compact with another district.

(2) The resident district of a student taking advantage of the provisions of this subsection shall pay tuition to the district or education service cooperative that is the administrative agency for the compact program in the amount agreed upon in the compact or as required by state rule.

(d) Attendance of a student enrolled in another school under the provisions of subsections (b) and (c) of this section shall be counted for state aid purposes by the student's resident district.

(e) Eligibility for participation in interschool activities by any such student shall be in accordance with regulations of the Arkansas Activities Association.

(f) The purpose of this section is not to be construed in any manner other than that of broadening the curriculum and program offerings that may be made available to students whose home districts do not offer subjects needed by such students to realize their educational objectives.

History. Acts 1983, No. 14, §§ 1-6; 1983, No. 149, §§ 1-6; A.S.A. 1947, §§ 80-1562 — 80-1567; Acts 1999, No. 1554, § 3; 2005, No. 2121, § 7; 2019, No. 315, § 244; 2019, No. 910, § 1512.

Amendments. The 2019 amendment

by No. 315 substituted "rule" for "regulation" in (c)(2).

The 2019 amendment by No. 910 substituted "Division of Elementary and Secondary Education" for "Department of Education" in (b)(5)(B).

6-18-205. Attendance in another district — Liability.

(a)(1) Persons, and their present or future siblings, who attended during the 1982-1983 or 1983-1984 school year schools outside the boundaries of the school district in which the persons reside may continue attending such schools at the discretion of the receiving schools notwithstanding that the board of directors of the school districts in which such persons reside disapproves the out-of-district attendance.

(2) Such students shall be counted in the receiving district's average daily membership and not in the average daily membership of the district of residence.

(3) Nothing in this section shall be construed as requiring any transfer of local funds to the receiving district.

(b)(1)(A) Any school district which admits for ten (10) school days or more a student the school district knows, or should have known, is a resident of another school district not included in a tuition agreement, or not officially transferred to it, shall be liable to the resident district of the student for an amount of money equal to the amount of state aid the resident district would have received or seven hundred fifty dollars (\$750) per year, whichever is greater.

(B)(i) Either school district may petition the Division of Elementary and Secondary Education to satisfy the liability by transferring that amount to the entitled school district from funds which the division would have distributed to the liable school district.

(ii) Upon receipt of a petition, the division shall determine the amount of the liability and satisfy it by the transfer.

(C) If a substantial question arises as to residence, the State Board of Education may decline to assess the penalty.

(2) This subsection shall be deemed supplemental to and not a repeal of subsection (a) of this section.

History. Acts 1983 (1st Ex. Sess.), No. 111, § 1; A.S.A. 1947, § 80-1571; Acts 1987, No. 528, §§ 1, 2; 2019, No. 910, § 1513.

in (b)(1)(B)(i), substituted "Division of Elementary and Secondary Education" for "Department of Education" and "division" for "department".

Amendments. The 2019 amendment,

6-18-207. Minimum age for enrollment in public school.

(a)(1) A student may enter kindergarten in the public schools of this state if he or she will attain the age of five (5) years on or before August 1 of the year in which he or she is seeking initial enrollment.

(2) Any student who has been enrolled in a state-accredited or state-approved kindergarten program in another state or in a kindergarten program equivalent in another country for at least sixty (60) days, who will become five (5) years old during the year in which he or she is enrolled in kindergarten, and who meets the basic residency requirement for school attendance may be enrolled in kindergarten upon written request to the school district.

(3) A student who was enrolled in a state-accredited or state-approved kindergarten program in another state or in a kindergarten program equivalent in another country may be enrolled in kindergarten in this state upon a written request to the school district if the student:

(A) Becomes a resident of this state as a direct result of active military orders or a court-ordered change of custody;

(B) Will become five (5) years of age during the year in which he or she is enrolled in kindergarten; and

(C) Meets the basic residency requirement for school attendance.

(b)(1) Any child may enter the first grade in the public schools of this state if the child will attain the age of six (6) years during the school year in which the child is seeking enrollment and the child has

successfully completed a kindergarten program in a public school in this state.

(2) Any child who will be six (6) years of age on or before October 1 of the school year of enrollment and who has not completed a state-accredited kindergarten program shall be enrolled pursuant to § 6-18-201(f).

(3) Any child who has been enrolled in the first grade in a state-accredited or state-approved elementary school in another state or in the first grade equivalent in another country for a period of at least sixty (60) days, who will become six (6) years of age during the school year in which the child is enrolled in grade one (1), and who meets the basic residency requirement for school attendance may be enrolled in the first grade.

History. Acts 1983 (1st Ex. Sess.), No. 60, § 2; 1985, No. 1029, § 1; A.S.A. 1947, § 80-1501.2; Acts 1989, No. 598, § 2; 1997, No. 1230, § 2; 1999, No. 570, § 2; 2001, No. 1535, § 2; 2007, No. 462, § 1; 2009, No. 29, § 1; 2013, No. 424, § 1; 2019, No. 756, § 12.

Amendments. The 2019 amendment added (a)(3).

6-18-208. Requirements for enrollment in public school — Exceptions.

(a) Before a child's admission to an Arkansas public school, a school district shall request the parent, legal guardian, person having lawful control, or person standing in loco parentis to furnish the child's Social Security number and shall inform the parent, legal guardian, person having lawful control of the child, or person standing in loco parentis that, in the alternative, the parent, legal guardian, person having lawful control of the child, or person standing in loco parentis may request that the school district assign the child a nine-digit number designated by the Division of Elementary and Secondary Education.

(b) Before a child's admission to an Arkansas public school, the parent, legal guardian, person having lawful control of the child, or person standing in loco parentis shall provide the school district with one (1) of the following documents indicating the child's age:

- (1) A birth certificate;
- (2) A statement by the local registrar or a county recorder certifying the child's date of birth;
- (3) An attested baptismal certificate;
- (4) A passport;
- (5) An affidavit of the date and place of birth by the child's parent, legal guardian, person having lawful control of the child, or person standing in loco parentis;
- (6) Previous school records; or
- (7) A United States military identification.

(c) Before a child's admission to an Arkansas public school, the parent, legal guardian, person having lawful control of the child, or person standing in loco parentis shall indicate on school registration

forms whether the child has been expelled from school in any other school district or is a party to an expulsion proceeding.

(d)(1) A school or school district shall not:

(A) Use, display, release, or print a student's Social Security number or any part of the Social Security number on any report, identification card, identification badge, or any document that will be made available or released to the public, to a student, or to a student's parent, legal guardian, person having lawful control of the child, or person standing in loco parentis without the express written consent of the student's parent, legal guardian, person having lawful control of the child, or person standing in loco parentis if the student is a minor, or of the student if the student is eighteen (18) years of age or older; or

(B) Make a student's Social Security number available by reading the magnetic strip or other encoded information on the student's identification card.

(2) This section does not apply to educational records that are transferred to or between the division, other public schools or school districts, or other governmental agencies as allowed or required by federal law, state law, or State Board of Education rule.

History. Acts 1959, No. 139, § 1; A.S.A. 1947, § 80-1501.1; Acts 1991, No. 838, § 1; 1993, No. 363, § 1; 1995, No. 574, § 1; 2003, No. 63, § 1; 2005, No. 246, § 1; 2019, No. 756, § 13; 2019, No. 910, §§ 1514, 1515.

Amendments. The 2019 amendment by No. 756 rewrote (a); substituted "parent, legal guardian, person having lawful control of the child, or person standing in loco parentis" for "parent, guardian, or responsible person" in the introductory language of (b), substituted the same lan-

guage for "parent or guardian" in (b)(5) and for "parent, guardian, or other responsible person" in (c), and made similar changes in (d)(1)(A); deleted "Beginning with the 2005-2006 school year" at the beginning of (d)(1); and made stylistic changes.

The 2019 amendment by No. 910 substituted "Division of Elementary and Secondary Education" for "Department of Education" in (a); and substituted "division" for "department" in (d)(2).

6-18-213. Attendance records and reports generally.

(a)(1) A record of pupil attendance shall be kept by each school district of the state in a format prescribed by the Division of Elementary and Secondary Education.

(2) This basic record, showing the daily attendance and absence of each student for the school year, shall be kept by a teacher or other officially designated person who notes the attendance or absence of each student on a daily basis.

(3) The attendance for resident and nonresident students shall be kept separately.

(4) The basic attendance records of each district shall be kept on file in electronic form by the district for a period of three (3) years and shall be audited as required by the State Board of Education.

(b)(1) The official reporting period for attendance shall be quarterly with the actual number of days counted in each period to be no less than forty (40) nor more than fifty (50).

(2) A waiver of this subsection may be granted by the division upon petition by a school district.

(c) This attendance record in each of the school districts of the state as reflected by the combined reports for the first three (3) quarters of the school year shall be the official data used in computing certain types of state aid for the following year.

(d)(1) Any district that fails to file by April 15 of any given year reports for the first three (3) quarters of that year, as required by subsection (c) of this section, shall have the remainder of its state foundation funding withheld and placed in escrow, to be released when the reports are received.

(2) A waiver of this subsection may be granted by the division upon petition by a school district.

(e) The division may analyze and inspect the attendance records of any school, school district, or open-enrollment public charter school to verify that a school, school district, or open-enrollment public charter school is correctly and accurately reporting attendance.

(f)(1) Except for those circumstances otherwise allowed by rule, any student who is absent from daily attendance for more than ten (10) consecutive school days shall be dismissed or dropped from the attendance records of the school, school district, or open-enrollment public charter school.

(2) Any student who fails to attend school by the tenth regular school day of the semester shall be retroactively dropped from the attendance records from the first day of the school semester.

(g) The state board shall promulgate rules and procedures as may be required to implement the intent of this section.

History. Acts 1973, No. 487, §§ 1-6, 8; A.S.A. 1947, §§ 80-1551 — 80-1557; Acts 1989, No. 466, § 1; 1997, No. 733, § 1; 1999, No. 391, § 11; 1999, No. 1078, § 71; 2001, No. 1220, § 3; 2003, No. 553, § 1; 2005, No. 2121, § 8; 2017, No. 867, § 2; 2019, No. 315, § 245; 2019, No. 910, § 1516.

Amendments. The 2019 amendment by No. 315 deleted “regulations” following “rules” in (g).

The 2019 amendment by No. 910 substituted “Division of Elementary and Secondary Education” for “Department of Education” in (a)(1).

6-18-214. Records of students leaving school without graduating.

(a) In addition to the records required by § 6-18-213, a record of students who have left school without having completed requirements for high school graduation shall be kept by each school district of the state on forms provided by the Division of Elementary and Secondary Education or on forms approved by the Commissioner of Elementary and Secondary Education as being suitable for the purpose of showing

data on students who leave school without having completed the requirements for high school graduation.

(b)(1) Such records shall identify the student by name and last known address.

(2) The records shall show, as to each student in grades seven through twelve (7-12) inclusive who had been reported in attendance by the school district for the previous attendance reporting period but who is no longer reported as attending school in that school district, the following information:

- (A) School site;
- (B) Date of birth;
- (C) Gender;
- (D) Racial or ethnic identification;
- (E) Educational handicapping condition, if any; and
- (F) Reason for leaving.

(3) Reporting forms shall include but not be limited to the following reasons for leaving school:

- (A) Enrollment in another accredited public, private, or parochial school program leading to a high school diploma;
- (B) Failing grades;
- (C) Lack of interest;
- (D) Conflict with school;
- (E) Suspension or expulsion;
- (F) Economic hardship;
- (G) Pregnancy or marriage;
- (H) Peer conflict;
- (I) Incarceration;
- (J) Alternative plans other than those listed; or
- (K) None of the reasons listed herein is known to apply.

(c) To the extent possible, the school district shall determine the reasons for a student's leaving school from the student or from the student's parent, guardian, or other responsible person and shall inform the student that any information obtained will be shared with the division and other governmental agencies.

(d)(1)(A) Each school district in the state shall file a report on students leaving school without having completed the requirements for high school graduation as a part of its official attendance report filed with the division for each quarterly period.

(B) The school shall keep the data on file as part of the basic attendance records in the district for a period of three (3) years.

(2) Each school district may provide the regional selective service agency with information on students leaving school without having graduated, including each student's name, date of birth, and last known address.

(e) The State Board of Education shall develop such forms and shall promulgate such rules and procedures as may be required to implement the intent of this section.

(f) To provide for more accurate, comparable, and timely dropout and school-leaver statistics and to facilitate inclusion in the national

education data system, the forms, rules, and procedures shall be developed and implemented in such a way as to allow for conformity with existing or revised collection processes for the data by the National Center for Education Statistics.

History. Acts 1983 (1st Ex. Sess.), No. 58, §§ 1, 2; 1983 (1st Ex. Sess.), No. 93, §§ 1, 2; A.S.A. 1947, §§ 80-1569, 80-1570; Acts 1987, No. 770, §§ 1, 2; 1997, No. 230, § 1; 2019, No. 315, § 246.

Amendments. The 2019 amendment deleted “regulations” following “rules” in (e) and (f).

6-18-215. School enrollment census — Determining student dropout rates.

(a)(1)(A) On or before October 1 of each school year, a public school shall conduct a census of all students enrolled at the school to arrive at a school enrollment census total for each grade.

(B) The number of students transferring into the school October 1 through September 30 of the following school year shall be added to the October 1 school enrollment census total for each grade.

(C) The number of students transferring out of the school October 1 through September 30 of the following school year shall be subtracted from the October 1 school enrollment census total for each grade.

(2) The number of students transferring out of a school shall be based on the number of official transcripts requested by other schools.

(3) Each school shall maintain separate records regarding students who leave the public school system to be home-schooled under § 6-15-503.

(b) The school enrollment census total as calculated and adjusted under subsection (a) of this section shall be used to determine the dropout rate for each school as follows:

(1) For grades two through twelve (2-12), the school enrollment census total for the current school year is compared to the school enrollment census total for each of the previous grades of the previous school year; and

(2) For grade one (1), the school enrollment census total for the current school year is compared to the school enrollment census total for the kindergarten class of the previous year.

(c) The graduation rates, as defined by the Division of Elementary and Secondary Education, shall be tracked for students in grades nine through twelve (9-12).

(d) The division shall use this section for in-state reporting purposes related to school dropout rates.

(e) The State Board of Education shall promulgate rules to require school districts to report graduation and dropout data each year in accordance with this section.

History. Acts 2003 (2nd Ex. Sess.), No. 104, § 1; 2005, No. 2151, § 18; 2019, No. 910, § 1517.

Amendments. The 2019 amendment substituted “Division of Elementary and Secondary Education” for “Department of Education” in (c); and substituted “division” for “department” in (d).

6-18-222. Penalty for unexcused absences — Revocation of driving privilege — Definition.

(a)(1)(A)(i) The board of directors of each school district in this state shall adopt a student attendance policy, as provided for in § 6-18-209, which shall include a certain number of unexcused absences that may be used as a basis for denial of course credit, promotion, or graduation.

(ii) However, unexcused absences shall not be a basis for expulsion or dismissal of a student.

(B) The legislative intent is that a student having unexcused absences because of illness, accident, or other unavoidable reasons should be given assistance in obtaining credit for the courses.

(2)(A) The Career Education and Workforce Development Board shall adopt a student attendance policy for sixteen-year-olds and seventeen-year-olds enrolled in an adult education program.

(B) The policy shall require a minimum attendance of ten (10) hours per week to remain in the program.

(3) A copy of the school district’s student attendance policy or the Career Education and Workforce Development Board’s student attendance policy for sixteen-year-olds and seventeen-year-olds enrolled in adult education shall be provided to the parent, guardian, or person in loco parentis of each student enrolled in an adult education program at the beginning of the school year or upon enrollment, whichever event first occurs.

(4)(A)(i) A student’s parent, guardian, or person in loco parentis and the community truancy board, if the community truancy board has been created, shall be notified when the student has accumulated unexcused absences equal to one-half ($\frac{1}{2}$) the total number of absences permitted per semester under the school district’s or the Career Education and Workforce Development Board’s student attendance policy.

(ii) Notice shall be by telephonic contact with the student’s parent, guardian, or person in loco parentis by the end of the school day in which the absence occurred or by regular mail with a return address on the envelope sent no later than the following school day.

(iii) Notice to the community truancy board, if the community truancy board has been created, shall be by letter to the chair of the community truancy board.

(B) If a community truancy board has been created, the community truancy board shall schedule a conference with the parent, guardian, or person in loco parentis to establish a plan to take steps to eliminate or reduce the student’s absences.

(C)(i) If the community truancy board has scheduled a conference and the student’s parent, guardian, or person in loco parentis does

not attend the conference, the conference may be conducted with the student and a school official.

(ii) However, the parent, guardian, or person in loco parentis shall be notified of the steps to be taken to eliminate or reduce the student's absences.

(D)(i) Before a student accumulates the maximum number of unexcused absences allowed in a school district's student attendance policy, the student or the student's parent, guardian, or person in loco parentis may petition the school administration or school district administration for special arrangements to address the student's unexcused absences.

(ii) If special arrangements are granted by the school administration or the school district administration, the arrangements will be formalized into a written agreement to include the conditions of the agreement and the consequences for failing to fulfill the requirements of the agreement.

(iii) The agreement shall be signed by the:

(a) Designee of the school administration or of the school district administration;

(b) Student's parent, guardian, or person in loco parentis; and

(c) Student.

(5)(A) When a student exceeds the number of unexcused absences provided for in the district's or the Career Education and Workforce Development Board's student attendance policy, or when a student has violated the conditions of an agreement granting special arrangements under subdivision (a)(4)(D) of this section, the school district or the adult education program shall notify the prosecuting authority and the community truancy board, if a community truancy board has been created, and the student's parent, guardian, or person in loco parentis shall be subject to a civil penalty through a family in need of services action in circuit court, as authorized under subdivision (a)(6)(A) of this section, but not to exceed five hundred dollars (\$500) plus costs of court and any reasonable fees assessed by the court.

(B) The penalty shall be forwarded by the court to the school or the adult education program attended by the student.

(6)(A)(i) Upon notification by the school district or the adult education program to the prosecuting authority, the prosecuting authority shall file in circuit court a family in need of services petition pursuant to § 9-27-310 or enter into a diversion agreement with the student pursuant to § 9-27-323.

(ii) For any action filed in circuit court to impose the civil penalty set forth in subdivision (a)(5) of this section, the prosecuting authority shall be exempt from all filing fees and shall take whatever action is necessary to collect the penalty provided for in subdivision (a)(5) of this section.

(B) Municipal attorneys may practice in circuit court for the limited purpose of filing petitions or entering into diversion agreements as authorized by this subdivision (a)(6)(B) if agreed upon by all of the parties pursuant to subdivision (a)(6)(A) of this section.

(7)(A) The purpose of the penalty set forth in this subsection is to impress upon the parents, guardians, or persons in loco parentis the importance of school or adult education attendance, and the penalty is not to be used primarily as a source of revenue.

(B)(i) When assessing penalties, the court shall be aware of any available programs designed to improve the parent-child relationship or parenting skills.

(ii) When practicable and appropriate, the court may utilize mandatory attendance at the programs as well as community service requirements in lieu of monetary penalties.

(8) As used in this section, "prosecuting authority" means:

(A) The elected district prosecuting attorney or his or her appointed deputy for schools located in unincorporated areas of the county or within cities not having a district court; and

(B) The prosecuting attorney of the city for schools located within the city limits of cities having a district court in which a city prosecutor represents the city for violations of city ordinances or traffic violations.

(9) In any instance in which it is found that the school district, the adult education program, or the prosecuting authority is not complying with the provisions of this section, the State Board of Education may petition the circuit court to issue a writ of mandamus.

(b)(1)(A) Each public, private, or parochial school shall notify the Department of Finance and Administration whenever a student fourteen (14) years of age or older is no longer in school.

(B) Each adult education program shall notify the department whenever a student sixteen (16) or seventeen (17) years of age has left the adult education program without receiving a high school equivalency certificate.

(2)(A) Upon receipt of notification, the department shall notify the licensee by certified mail, return receipt requested, that his or her motor vehicle operator's license will be suspended unless a hearing is requested in writing within thirty (30) days from the date of notice.

(B) The licensee shall be entitled to retain or regain his or her license by providing the department with adequate evidence that:

(i) The licensee is eighteen (18) years of age;

(ii) The licensee is attending school or an adult education program;

or

(iii) The licensee has obtained a high school diploma or its equivalent.

(C)(i) In cases in which demonstrable financial hardship would result from the suspension of the learner's permit or driver's license, the department may grant exceptions only to the extent necessary to ameliorate the hardship.

(ii) If it can be demonstrated that the conditions for granting a hardship were fraudulent, the parent, guardian, or person in loco parentis shall be subject to all applicable perjury statutes.

(3) The department shall have the power to promulgate rules to carry out the intent of this section and shall distribute to each public,

private, and parochial school and each adult education program a copy of all rules adopted under this section.

History. Acts 1989, No. 473, §§ 1, 2; 1989 (3rd Ex. Sess.), No. 70, §§ 1-5; 1991, No. 876, § 1; 1992 (1st Ex. Sess.), No. 42, § 1; 1994 (2nd Ex. Sess.), No. 30, § 2; 1994 (2nd Ex. Sess.), No. 31, § 2; 1995, No. 572, § 1; 1995, No. 837, § 3; 1995, No. 1296, § 23; 1997, No. 1308, § 1; 1999, No. 1323, § 20; 1999, No. 1579, § 2[3]; 2003, No. 1166, § 38; 2011, No. 1223, § 4; 2013, No. 1322, §§ 4, 7-10; 2019, No. 315, § 247; 2019, No. 692, § 7.

Amendments. The 2019 amendment by No. 315 deleted “and regulations” following “rules” twice in (b)(3).

The 2019 amendment by No. 692 deleted “police or” preceding “district court” in (a)(8)(A); and deleted “either a police court or” preceding “a district court” in (a)(8)(B).

6-18-223. Credit for college courses.

(a)(1) A public school student who is enrolled in a public school in Arkansas and who has successfully completed the eighth grade shall be eligible to enroll in a publicly supported community college or four-year college or university in accordance with rules adopted by each institution in consultation with the Arkansas Higher Education Coordinating Board.

(2) A student who enrolls in and successfully completes a course or courses offered by an institution of higher education shall be entitled to receive appropriate academic credit in both the institution of higher education and the public school in which such student is enrolled, which credit shall be applicable to graduation requirements.

(b) The State Board of Education is authorized to adopt rules as may be necessary for implementation of this requirement.

History. Acts 1989 (3rd Ex. Sess.), No. 60, § 1; 1991, No. 1097, § 1; 2019, No. 315, §§ 248, 249.

Amendments. The 2019 amendment deleted “and regulations” following “rules” in (a)(1) and (b).

6-18-227. Arkansas Opportunity Public School Choice Act.

(a)(1) This section may be referred to and cited as the “Arkansas Opportunity Public School Choice Act”.

(2)(A) The purpose of this section is to provide enhanced opportunity for students in this state to gain the knowledge and skills necessary for postsecondary education, a technical education, or the world of work.

(B) The General Assembly:

(i) Recognizes that the Arkansas Constitution, as interpreted by the Supreme Court in *Lake View School District No. 25 v. Huckabee*, 351 Ark. 31 (2002), makes education a paramount duty of the state;

(ii) Finds that the Arkansas Constitution requires the state to provide an adequate education;

(iii) Further finds that a student should not be compelled against the wishes of the parent, guardian, or the student, if the student is over eighteen (18) years of age, to remain in a public school district

classified by the State Board of Education as a school district in need of Level 5 — Intensive support under § 6-15-2913 or § 6-15-2915 or a public school that has a rating of “F” under §§ 6-15-2105 and 6-15-2106 and state board rules; and

(iv) Shall make available a public school choice option in order to give a student the opportunity to attend a public school or school district not in need of Level 5 — Intensive support under § 6-15-2913 or § 6-15-2915 or that does not have a rating of “F” under §§ 6-15-2105 and 6-15-2106 and state board rules.

(3) The General Assembly further finds that giving more options to parents and students with respect to where the students attend public school will increase the responsiveness and effectiveness of the state’s schools, since teachers, administrators, and school district board members will have added incentives to satisfy the educational needs of the students who reside in the district.

(4) A public school choice program is hereby established to enable a student to transfer, subject to the restrictions in this section, from a:

(A) Public school district that is classified by the state board as a public school district in need of Level 5 — Intensive support under § 6-15-2913 or § 6-15-2915 to another public school district in the state that is not classified as in need of Level 5 — Intensive support under § 6-15-2913 or § 6-15-2915; or

(B) Public school that has a rating of “F” under §§ 6-15-2105 and 6-15-2106 and state board rules to a public school that does not have a rating of “F” under §§ 6-15-2105 and 6-15-2106 and state board rules.

(b)(1) Upon the request of a parent, guardian, or student, if the student is over eighteen (18) years of age, a student may transfer from his or her resident district or public school to another school district or public school under this section if, at the time of the request under this subdivision (b)(1):

(A) Either:

(i) The resident public school district has been classified by the state board as a public school district in need of Level 5 — Intensive support under § 6-15-2913 or § 6-15-2915; or

(ii) The resident public school has a rating of “F” under §§ 6-15-2105 and 6-15-2106 and state board rules; and

(B)(i) Except as provided in subdivision (b)(1)(B)(ii) of this section, the parent, guardian, or student, if the student is over eighteen (18) years of age, has notified the Division of Elementary and Secondary Education and both the sending and receiving school districts of the request for a transfer no later than May 1 of the year before the student intends to transfer.

(ii)(a) If a student has a parent or guardian who is an active-duty member of the military and who has been transferred to and resides on a military base, then the student’s parent or guardian may submit a request for transfer under this section at any time during the calendar year.

(b) An application for transfer under subdivision (b)(1)(B)(ii)(a) of this section shall:

(1) Be filed with the nonresident school district within fifteen (15) days of the parent's or guardian's arrival on the military base;

(2) Include the parent's or guardian's military transfer orders; and

(3) Include the parent's or guardian's proof of residency on the military base.

(2)(A)(i) For the purposes of continuity of educational choice, a transfer under this section shall operate as an irrevocable election for each subsequent entire school year and shall remain in force until the student completes high school or the parent, guardian, or student, if the student is over eighteen (18) years of age, timely makes application under a provision of law governing attendance in or transfer to another public school or school district other than the student's assigned school or resident district.

(ii)(a) Except as provided in subdivision (b)(2)(A)(ii)(b) of this section, a transfer under this section is effective at the beginning of the next academic year.

(b) A transfer under this section for a student who has a parent or guardian who is an active-duty member of the military and who resides on a military base is effective upon the approval of the accepting school board at its next meeting.

(B) Application for the opportunity public school choice option under this section shall:

(i) Be provided by the division; and

(ii) Contain a notice that a transfer under this section:

(a) Operates as an irrevocable choice for at least one (1) entire school year; and

(b) Remains in effect until the student completes high school, except as otherwise provided by law.

(3)(A) For each student enrolled in or assigned to a public school district that is classified by the state board as a public school district in need of Level 5 — Intensive support under § 6-15-2913 or § 6-15-2915 or a public school that has a rating of "F" under §§ 6-15-2105 and 6-15-2106 and state board rules, a school district shall:

(i) Timely notify the parent, guardian, or student, if the student is over eighteen (18) years of age, as soon as practicable after the designation is made, of all options available under this section; and

(ii)(a) Offer the parent, guardian, or student, if the student is over eighteen (18) years of age, an opportunity to submit an application to enroll the student in the upcoming school year in any public school district that is not classified by the state board as a public school district in need of Level 5 — Intensive support under §§ 6-15-2913 and 6-15-2915 or a public school that does not have a rating of "F" under §§ 6-15-2105 or 6-15-2106 and state board rules.

(b) The opportunity to continue attending the public school or school district that the student transfers to under this section remains in effect until the student graduates from high school.

(B)(i) The parent or guardian of a student enrolled in or assigned to a public school district that is classified by the state board as a public school district in need of Level 5 — Intensive support under § 6-15-2913 or § 6-15-2915 or a public school that does not have a rating of “F” under §§ 6-15-2105 and 6-15-2106 and state board rules may choose as an alternative to enroll the student in a legally allowable public school district that is not classified as a public school district in need of Level 5 — Intensive support under § 6-15-2913 or § 6-15-2915 or a public school that does not have a rating of “F” under §§ 6-15-2105 and 6-15-2106 and state board rules and that is nearest to the student’s legal residence.

(ii) The school district under subdivision (b)(3)(B)(i) of this section shall accept the student and report the student for purposes of funding under applicable state law.

(C)(i) Students with disabilities who are eligible to receive services from the school district under federal or state law, including students receiving additional funding through federal title programs specific to the Elementary and Secondary Education Act of 1965, Pub. L. No. 89-10, and who participate in the public school choice program, remain eligible to receive services from the school district as provided by federal or state law.

(ii) Any funding for a student under subdivision (b)(3)(C)(i) of this section shall be transferred to the public school or school district to which the student transfers.

(c)(1)(A) The receiving public school or school district under this section may transport students to and from the transferring public school or school district, and the cost of transporting students shall be the responsibility of the transferring public school district except as provided under subdivisions (c)(1)(B) and (c)(2) of this section.

(B) A transferring public school or school district is not required to spend more than four hundred dollars (\$400) per student per school year for transportation required under subdivision (c)(1)(A) of this section.

(2) Upon the transferring public school district’s removal from classification as a public school district in need of Level 5 — Intensive support under § 6-15-2913 or § 6-15-2915 or the transferring public school’s receipt of a rating other than “F” under §§ 6-15-2105 and 6-15-2106 and state board rules, the transportation costs shall no longer be the responsibility of the transferring public school or school district, and the student’s transportation and the costs of the transportation shall be the responsibility of the parent or guardian or of the receiving public school district if the receiving public school or school district agrees to bear the transportation costs.

(d)(1)(A) A school district board of directors shall offer the opportunity public school choice option to public schools in the school district of the school district board of directors.

(B) The opportunity public school choice option shall be offered in addition to other existing choice programs.

(2)(A)(i) A school district shall not deny a student the ability to attend a school in the student's school district of choice under this section unless there is a lack of capacity at the school in the student's school district of choice.

(ii) A lack of capacity may be claimed by a school district only if the school district has reached the maximum student-to-teacher ratio allowed under federal law, state law, the rules for standards of accreditation, state rules, or other applicable federal regulations.

(B) The race or ethnicity of a student shall not be used to deny a student the ability to attend a school in the student's school district of choice under this section.

(3) A student or the student's parent or guardian may appeal a school district's decision to deny admission to a school in the student's school district of choice due to lack of capacity to the state board after the student or the student's parent or guardian receives a written notice from the school district of choice that admission has been denied.

(4) The division shall promulgate rules governing the use of school capacity as a basis for denying admission under this section.

(e)(1) This section and all student choice options created in this section shall not be subject to any other limitation or restriction provided by law.

(2) If any part of this section conflicts with a federal desegregation court order applicable to a school district, the federal desegregation court order shall govern.

(f)(1) The division shall develop an annual report on student participation in public school choice and opportunity school choice and deliver the report to the state board, the Governor, the House Committee on Education, the Senate Committee on Education, and the Legislative Council at least sixty (60) days before the convening of the regular session of the General Assembly.

(2) The annual report required under subdivision (f)(1) of this section shall include without limitation:

(A) The number of public school students participating in:

(i) Public school choice under the Public School Choice Act of 2015, § 6-18-1901 et seq.; and

(ii) Opportunity public school choice under this section, disaggregated by whether the transfer under this section was from within a public school district or outside a public school district; and

(B) Aggregate data of the race and gender of students participating in public school choice and opportunity school choice.

(3) Each public school district shall report to the division annually the information necessary to complete the report required under subdivision (f)(1) of this section.

(g)(1) A receiving district shall accept credits toward graduation that were awarded by another district.

(2) The receiving district shall award a diploma to a nonresident student if the student meets the receiving district's graduation requirements.

(h) For purposes of determining a school district's state funding, the nonresident student shall be counted as a part of the average daily membership of the district to which the student has transferred.

(i)(1) Unless excused by the receiving school district for illness or other good cause:

(A) Any student participating in the opportunity public school choice option shall:

(i) Remain in attendance throughout the school year; and

(ii) Comply fully with the school's code of conduct; and

(B) The parent or guardian of each student participating in the opportunity public school choice option shall comply fully with the receiving public school's parental involvement requirements.

(2) A participant who fails to comply with this section shall forfeit the opportunity public school choice option.

(j)(1) The maximum opportunity public school choice funds granted for an eligible student shall be calculated based on applicable state law.

(2) A public school that provides services to students with disabilities shall receive funding as determined by applicable federal and state law.

(k) The state board shall adopt any rules necessary for the implementation of this section under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(l) A district under the public school choice program under this section shall request public service announcements to be made over the broadcast media and in the print media at such times and in such a manner as to inform parents or guardians of students in adjoining districts of the availability of the program under this section, the application deadline, and the requirements and procedure for nonresident students to participate in the program under this section.

History. Acts 2003 (2nd Ex. Sess.), No. 35, § 7; 2005, No. 2121, § 22; 2011, No. 1124, §§ 1, 2; 2011, No. 1147, § 1; 2013, No. 600, §§ 7-12; 2013, No. 1138, § 45; 2013, No. 1227, § 4; 2013, No. 1429, § 11; 2019, No. 171, §§ 1, 2; 2019, No. 315, § 250; 2019, No. 754, § 1; 2019, No. 910, §§ 1518-1522.

Amendments. The 2019 amendment by No. 171 added the (b)(1)(B)(i) designation; added "Except as provided in subdivision (b)(1)(B)(ii) of this section" in (b)(1)(B)(i); added (b)(1)(B)(ii); added the (b)(2)(A)(ii)(a) designation; added "Except as provided in subdivision (b)(2)(A)(ii)(b) of this section" in (b)(2)(A)(ii)(a); and added (b)(2)(A)(ii)(b).

The 2019 amendment by No. 315, in (d)(2)(A)(ii), inserted "state rules" and substituted "federal regulations" for "regulations".

The 2019 amendment by No. 754 deleted "of 2004" following "Act" in the section heading and (a)(1); and rewrote the section.

The 2019 amendment by No. 910 substituted "Division of Elementary and Secondary Education" for "Department of Education" in (b)(1)(B) [now (b)(1)(B)(i)]; and substituted "division" for "department" throughout the section.

6-18-230. Minimum age for enrolling in prekindergarten.

(a)(1) A child may enter a prekindergarten program for children three (3) years of age if the child will attain three (3) years of age on or before August 1 immediately preceding the beginning of the school year.

(2) A child may enter a prekindergarten program for children four (4) years of age if the child will attain four (4) years of age on or before August 1 immediately preceding the beginning of the school year.

(b)(1) The Division of Child Care and Early Childhood Education shall notify all providers of appropriate early childhood programs for prekindergarten of the age requirements specified in subsection (a) of this section by providing one (1) written notification letter sent to each provider of appropriate early childhood programs for prekindergarten at the address of record on file with the Department of Human Services.

(2) The prekindergarten age requirements specified in subsection (a) of this section shall be published on the website of the:

(A) Department of Human Services; and

(B) Division of Elementary and Secondary Education.

History. Acts 2009, No. 426, § 1; 2013, No. 1138, § 46; 2019, No. 910, § 1523. substituted “Division of Elementary and Secondary Education” for “Department of Education” in (b)(2)(B).

6-18-232. Enrollment of private school or home school students.

(a) Except as provided under subsection (d) of this section, a public school district or an open-enrollment public charter school shall adopt a policy that allows a student who attends a private school or a home school to enroll in an academic course at a public school or an open-enrollment public charter school if the student resides in the public school district where the public school or open-enrollment public charter school is located.

(b) A policy adopted by a public school district or open-enrollment public charter school under subsection (a) of this section may:

(1)(A) Include provisions that apply to a private school or home-schooled student who is enrolled in an academic course at a public school or open-enrollment public charter school, including without limitation provisions regarding:

(i) Academic or grade-level prerequisites;

(ii) Attendance;

(iii) Testing;

(iv) Coursework;

(v) Grades; and

(vi) Conduct.

(B) The provisions included under subdivision (b)(1)(A) of this section shall be consistent with provisions included in the public school district’s or open-enrollment public charter school’s policies that apply to public school students;

(2) Allow a student who attends a private school or a home school to enroll in one (1) or more academic courses in a semester; and

(3) Limit enrollment if the enrollment of a private school or home-schooled student would:

(A) Create a financial loss for the public school district or open-enrollment public charter school; or

(B) Violate any state or federal law or any rule established by the Division of Elementary and Secondary Education.

(c)(1) A public school district or an open-enrollment public charter school that enrolls a student who attends a private school or a home school in an academic course is entitled to an amount equal to one-sixth (1/6) of the state foundation funding amount for each academic course in which a student who attends a private school or a home school is enrolled.

(2) A public school district or an open-enrollment public charter school is not entitled to more than the equivalent of the state foundation funding amount for one (1) average daily membership per student regardless of the number of academic courses in which the student who attends a private school or a home school is enrolled.

(d) A public school district or an open-enrollment public charter school may seek a waiver from the division from the requirements under this section.

(e) If a student who attends a private school or a home school enrolls in an endorsed concurrent enrollment course as defined by § 6-16-1202(2), the student shall not be charged for the endorsed concurrent enrollment course unless the public school district also charges public school students or open-enrollment public charter school students for the endorsed concurrent enrollment course.

(f) A public school district or open-enrollment public charter school under this section:

(1) May provide transportation for a private school or home-schooled student to or from the location of the academic course; and

(2) Shall provide a final grade and transcript to each private school or home-schooled student who completes an academic course in which the student is enrolled at a public school or open-enrollment public charter school.

(g)(1) A private school or home-schooled student is not considered truant from a public school or open-enrollment public charter school under this section due to unexcused absences from the academic course in which the private school or home-schooled student is enrolled.

(2) However, a public school or open-enrollment public charter school may drop a private school or home-schooled student from an academic course in the event of excessive unexcused absences or any other violation of policies regarding the academic course in which the private school or home-schooled student is enrolled.

(h) This section does not apply to a statewide open-enrollment public charter school that operates primarily as a virtual school.

History. Acts 2017, No. 173, § 1; 2019, No. 429, § 1; 2019, No. 430, §§ 1-3.

Amendments. The 2019 amendment by No. 429 added (e).

The 2019 amendment by No. 430, in (a), added "Except as provided under subsec-

tion (d) of this section" and substituted "shall adopt" for "may adopt"; rewrote (b)(1) and (b)(3); rewrote (d); added (f) through (h); and made a stylistic change.

6-18-233. School choice for children in foster care — Definition.

(a) As used in this section, “foster parent” means the person or entity having custody or charge of a foster child.

(b)(1)(A) A foster parent or the foster child, if the foster child is over eighteen (18) years of age, may request the Department of Human Services to approve the transfer of the foster child to another public school or public school district.

(B) Before making the request under subdivision (b)(1)(A) of this section, the foster parent shall comply with the requirements concerning school of origin under 42 U.S.C. §§ 671 and 675, as they existed on January 1, 2017, the Every Student Succeeds Act, 20 U.S.C. § 6301 et seq., as it existed on January 1, 2017, and § 9-28-113.

(2)(A) The department shall approve the transfer request under subdivision (b)(1) of this section if the department determines that the transfer is in the best interest of the foster child.

(B) In determining whether the transfer is in the best interest of the foster child, the department shall consider whether other children who reside in the foster home attend the public school or public school district to which the foster parent or the foster child, if the foster child is over eighteen (18) years of age, is requesting the foster child to transfer.

(c) If the department approves a request to transfer under subdivision (b)(2) of this section as being in the best interest of the foster child, a public school or public school district, upon request of a foster parent or the foster child, if the foster child is over eighteen (18) years of age, shall allow a foster child to transfer to the public school or public school district unless the public school or public school district demonstrates that:

(1) The public school or public school district has reached the maximum student-to-teacher ratio allowed under federal law, state law, rules for standards of accreditation, or other applicable rule or regulation; or

(2)(A) Approving the transfer would conflict with a provision of an enforceable desegregation court order or a public school district’s court-approved desegregation plan regarding the effects of past racial segregation in student assignment.

(B) If a public school district claims a conflict under subdivision (c)(2)(A) of this section, the public school district shall immediately submit proof from a federal court to the Division of Elementary and Secondary Education that the public school district has a genuine conflict under an active desegregation order or active court-approved desegregation plan with the provisions of this section.

(d)(1) A request to transfer under subsection (c) of this section shall be:

(A) Made on a form approved by the division; and

(B) Postmarked no later than May 1 of the year in which the student seeks to begin the fall semester at the public school district.

(2)(A) By July 1 of the school year in which the student seeks to transfer under this section, the superintendent of the public school district shall notify the foster parent or the foster child, if the foster child is over eighteen (18) years of age, in writing as to whether the foster child's application has been accepted or rejected.

(B)(i) If the application is rejected, the superintendent of the public school district shall state in the notification letter the reason for rejection.

(ii) If the application is accepted, the superintendent of the public school district shall state in the notification letter a reasonable deadline by which the foster child shall enroll in the public school district and after which the acceptance notification is null.

(e)(1) A foster child whose transfer is rejected by the public school district may request a hearing before the State Board of Education to reconsider the transfer.

(2) A request for a hearing before the state board shall be in writing and shall be postmarked no later than ten (10) days after the foster parent or the foster child, if the foster child is over eighteen (18) years of age, receives a notice of rejection of the transfer.

(3) If the state board overturns the rejection of the transfer on appeal, the state board shall notify the foster parent or the foster child, if the foster child is over eighteen (18) years of age, and public school district of the basis for the state board's decision.

(f) A transfer approved under this section shall remain in effect until the foster child:

(1) Graduates from high school; or

(2) Is approved for another transfer under this section, the Arkansas Opportunity Public School Choice Act, § 6-18-227, the Public School Choice Act of 2015, § 6-18-1901 et seq., or any other law that allows a transfer.

(g) A public school district to which a foster child transfers under this section shall accept credits toward graduation that were awarded by another public school district.

(h)(1) Except as provided in subdivision (h)(3) of this section, the foster child or the foster parent is responsible for the transportation of the foster child to and from the public school to which the foster child transferred under this section.

(2) The public school district may enter into a written agreement with the foster parent or the foster child, if the foster child is over eighteen (18) years of age, to provide the transportation.

(3) Nothing in this subsection affects the obligation of a public school district or child welfare agency to provide a foster child transportation to his or her school of origin under the Every Student Succeeds Act, 20 U.S.C. § 6301 et seq., § 9-28-113, or other law.

(i) For purposes of determining a public school district's state aid, a foster child who transfers under this section shall be counted as a part of the average daily membership of the public school district where the foster child is enrolled.

(j) This section does not affect the right of a foster child to remain in his or her school of origin under 42 U.S.C. §§ 671 and 675, as they existed on January 1, 2017, the Every Student Succeeds Act, 20 U.S.C. § 6301 et seq., as it existed on January 1, 2017, § 6-18-202, § 6-20-504, § 9-28-113, or other law.

(k) The division shall promulgate rules to implement this section.

History. Acts 2017, No. 988, § 1; 2019, No. 910, §§ 1524-1526.

substituted "Division of Elementary and Secondary Education" for "Department of Education" in (c)(2)(B), (d)(1)(A), and (k).

Amendments. The 2019 amendment

SUBCHAPTER 3 — ASSIGNMENT

SECTION.

6-18-316. Transfer on petition of student.

6-18-317. Prohibited transfers.

SECTION.

6-18-319. District contacts.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019".

6-18-316. Transfer on petition of student.

(a) Upon the petition of a student residing in one (1) school district, the resident district, to transfer to another school district, the receiving district, the board of directors of the resident district may enter into an agreement with the board of directors of the receiving school district transferring the student to the receiving district for purposes of education.

(b) Forms for use in transferring children from one (1) school district to another shall be provided by the Division of Elementary and Secondary Education.

(c) After the petition has been approved by the board of directors of the resident district and the board of directors of the receiving district, copies of approved transfers shall be filed by the receiving district with the office of the county clerk, with the administrative offices of the respective school districts, and with the division.

(d) This legal transfer of a student from one (1) district to another places the responsibility for the education of the student on the

receiving district and permits the receiving district to count these children in average daily membership for state aid purposes.

(e) This section does not transfer the local tax money from the resident district.

(f)(1) Upon approval of the transfer by the resident district, the receiving district may also enter into a tuition agreement with either the resident district or the parents of the child or children involved whereby the resident district or the parents will make tuition payments to the receiving district to compensate the district for local taxes not received on behalf of the child or children involved.

(2) The annual amount of the tuition shall not exceed the average amount of local property tax per pupil collected in the receiving district in the preceding year.

(g) Student transfers granted under the provisions of this section shall be reviewed at the end of four (4) years by the districts involved to determine whether the agreement should be renewed.

(h) Student transfers granted under this section constitute an independent agreement between the resident district and the receiving district and are not subject to the provisions and limitations of other student transfer laws.

History. Acts 1987, No. 464, § 1; 1987, No. 762, § 1; 1989, No. 950, § 2; 2001, No. 1207, § 2; 2017, No. 1065, § 2; 2019, No. 910, § 1527.

substituted “Division of Elementary and Secondary Education” for “Department of Education” in (b); and substituted “division” for “department” in (c).

Amendments. The 2019 amendment

6-18-317. Prohibited transfers.

(a) Boards of directors of local school districts are prohibited from granting legal transfers under § 6-18-316 when:

(1) Either the resident district or the receiving district is under a desegregation-related court order; and

(2) The transfer in question would violate the court order.

(b) Each form filed with the Division of Elementary and Secondary Education reporting a legal student transfer must be accompanied by an affidavit signed by each member of both school district boards of directors stating that the transfer does not violate the prohibition set forth in subsection (a) of this section.

(c) If the transfer fails to comply with subsection (b) of this section, the division shall withhold from each district state aid in an amount equal to that to be generated by the student in question in the respective districts.

History. Acts 1987, No. 762, §§ 2-4; 2017, No. 1065, § 3; 2019, No. 910, § 1528.

substituted “Division of Elementary and Secondary Education” for “Department of Education” in (b); and substituted “division” for “department” in (c).

Amendments. The 2019 amendment

6-18-319. District contacts.

- (a) The superintendent of a school district, or the superintendent’s designee, accepting the transfer of a student from another district in the state shall make proper inquiry of the parents or guardian of the student to determine whether the student has proper contacts or other legal right to be enrolled as a student in that district.
- (b) The superintendent of the school district, or the superintendent’s designee, shall promptly verify to the district from which the student transferred that the student has been approved for enrollment in the district after a determination that the student has a legal right to attend in the district.
- (c) A school district from which the student transferred has the right to appeal the transfer of the student to the Division of Elementary and Secondary Education. The school district to which the student transferred and the parents or guardian of the student shall have the burden to prove the transfer was proper.

History. Acts 1997, No. 482, § 1; 2019, No. 910, § 1529.

Amendments. The 2019 amendment

substituted “Division of Elementary and Secondary Education” for “Department of Education” in (c).

SUBCHAPTER 5 — DISCIPLINE

- | | |
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| SECTION. | SECTION. |
| 6-18-502. Rules for development of school district student discipline policies. | 6-18-510. Enrollment during expulsion — School policy. |
| 6-18-503. Written student discipline policies required — Definition. | 6-18-511. Removal by teacher. |
| 6-18-504. Compliance with §§ 6-18-502 and 6-18-503. | 6-18-514. Antibullying policies — Definitions. |
| 6-18-505, 6-18-506. [Repealed.] | 6-18-516. Effective school discipline — Definition. |
| 6-18-507. Suspension — Expulsion — Definitions. | |

Effective Dates. Acts 2019, No. 910, § 6346(b); July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

6-18-501. Duty of teachers, classified school employees, and volunteers.**RESEARCH REFERENCES**

ALR. School's or School Official's Liability for Unfair Disciplinary Action Against Student Accused of Sexual Harassment or Assault, 34 A.L.R.7th Art. 1 (2018).

6-18-502. Rules for development of school district student discipline policies.

(a) The Division of Elementary and Secondary Education shall establish rules for the development of school district student discipline policies.

(b) Such rules shall include without limitation the following requirements:

(1) Parents, students, and school district personnel, including teachers, shall be involved in the development of school district student discipline policies;

(2)(A) The school district's committee on personnel policies shall review annually:

(i) The school district's student discipline policies; and

(ii) State and district discipline data.

(B) The committee may recommend changes in the policies to the board of directors of the local school district based on the committee's review under subdivision (b)(2)(A) of this section; and

(3) Student discipline policies shall include without limitation the following offenses:

(A) Willfully and intentionally assaulting or threatening to assault or abuse any student or teacher, principal, superintendent, or other employee of a school system;

(B) Possession by students of any firearm or other weapon prohibited upon the school campus by law or by policies adopted by the school district board of directors;

(C) Using, offering for sale, or selling beer, alcoholic beverages, or other illicit drugs by students on school property; and

(D) Willfully or intentionally damaging, destroying, or stealing school property by students.

(c) The school discipline policies shall:

(1)(A) Prescribe minimum and maximum penalties, including without limitation students' suspension or expulsion from school, for violations of any of the offenses described in subdivision (b)(3) of this section and for violations of other practices prohibited by school discipline policies.

(B) However, the superintendent shall have discretion to modify the prescribed penalties for a student on a case-by-case basis;

(2)(A) Prescribe expulsion from school for a period of one (1) year for possession of any firearm or other weapon prohibited upon the school campus by law.

(B) Provided, however, that the superintendent shall have discretion to modify such expulsion requirement for a student on a case-by-case basis;

(3) Establish procedures for notice to students and parents of charges, hearings, and other due process proceedings to be applicable in the enforcement and administration of such policies by the school administrator and by the school district board of directors;

(4) Include prevention, intervention, and conflict resolution provisions;

(5) Set forth the role and authority of public school employees and volunteers as provided in this subchapter;

(6) Include programs, measures, or alternative means and methods to continue student engagement and access to education during periods of suspension or expulsion; and

(7) Establish procedures for responding to reports received through the school safety and crisis line under § 6-18-111.

(d) Student discipline policies shall provide that parents and students will be advised of the rules and regulations by which the school is governed and will be made aware of the behavior that will call for disciplinary action and the types of corrective actions that may be imposed.

(e) Each school district shall develop a procedure for written notification to all parents and students of the district's student discipline policies and for documentation of the receipt of the policies by all parents and students.

(f) Teachers and administrators, classified school employees, and volunteers shall be provided with appropriate student discipline, behavioral intervention, and classroom management training and support.

(g) If a school employee believes that any action taken by the school district to discipline a student referred by that employee does not follow school district discipline policies, the school employee may appeal under the district's grievance procedure as provided under § 6-17-208.

(h) In developing the state rules for school district discipline policies, the division shall involve parents, students, teachers, and administrators.

History. Acts 1983 (1st Ex. Sess.), No. 77, § 1; 1983 (1st Ex. Sess.), No. 104, § 1; A.S.A. 1947, § 80-1629.6; Acts 1989, No. 146, § 1; 1995, No. 567, § 1; 1995, No. 968, § 1; 1997, No. 706, § 1; 1999, No. 1475, §§ 2, 3; 2001, No. 447, § 1; 2013, No. 71, § 1; 2019, No. 640, §§ 1-4; 2019, No. 910, §§ 1530, 1531; 2019, No. 1064, § 3.

Amendments. The 2019 amendment by No. 640 substituted "rules" for "guidelines" in (a) and the introductory language

of (b); rewrote (b)(2)(A); added "based on the committee's review under subdivision (b)(2)(A) of this section" in (b)(2)(B); rewrote (c)(1); deleted "not less than" preceding "one (1) year" in (c)(2)(A); added (c)(6); in (f), inserted "behavioral intervention, and classroom management", and added "and support"; substituted "rules" for "guidelines" in (h); and made stylistic changes.

The 2019 amendment by No. 910 substituted "Division of Elementary and Sec-

ondary Education” for “Department of Education” in (a); and substituted “division” for “department” in (h). The 2019 amendment by No. 1064 added (c)(7).

6-18-503. Written student discipline policies required — Definition.

(a)(1)(A) Each school district in this state shall develop written student discipline policies in compliance with the rules established by the Division of Elementary and Secondary Education and shall file the policies with the division.

(B) The rules required under subdivision (a)(1)(A) of this section may include minimum standards of quality, experimentation with innovative programs, and a system to judge the effectiveness of the program.

(C) The discipline policy required under subdivision (a)(1)(A) of this section shall include provisions for:

(i) Placement of a student with disciplinary, socially dysfunctional, or behavioral problems not associated with a physical or mental impairment or disability in an alternative learning environment provided by the district; and

(ii) Procedures for responding to reports received through the school safety and crisis line under § 6-18-111.

(2) Behavioral problems include being at risk of not satisfactorily completing a high school education.

(b)(1) A school district that authorizes use of corporal punishment in its discipline policy shall include provisions for administration of the punishment, including that it be administered only for cause, be reasonable, follow warnings that the misbehavior will not be tolerated, and be administered by a teacher or school administrator and only in the presence of a school administrator or his or her designee, who shall be a teacher or school administrator employed by the school district.

(2) As used in this subchapter, “teacher or school administrator” means:

(A) A person employed by a school district and required to hold a valid Arkansas standard teaching license, an ancillary license, a provisional license, a technical permit, or an administrator’s license issued by the State Board of Education; and

(B) An unlicensed classroom teacher or administrator employed in a position under a waiver from licensure.

(3) A school district that authorizes use of corporal punishment under subdivision (b)(1) of this section shall not:

(A) Use corporal punishment on a child who is intellectually disabled, nonambulatory, nonverbal, or autistic; or

(B) Include in its written student discipline policy a provision to allow the use of corporal punishment on a child who is intellectually disabled, nonambulatory, nonverbal, or autistic.

(c)(1) A school district shall include in its student discipline policies a provision prohibiting students from wearing, while on the grounds of

a public school during the regular school day and at school-sponsored activities and events, clothing that exposes underwear, buttocks, or the breast of a female.

(2) Subdivision (c)(1) of this section shall not apply to a costume or uniform worn by a student while participating in a school-sponsored activity or event.

(3) A school district shall specify in its student discipline policies the disciplinary actions that will be taken against a student for a violation of subdivision (c)(1) of this section.

(4) Subdivision (c)(1) of this section shall not be enforced in a manner that discriminates against a student on the basis of his or her race, color, religion, sex, disability, or national origin.

(d) Any amendments or revisions to a school district's student discipline policies shall be developed and adopted in the same manner as the original policies required by § 6-18-502 and shall be consistent with the rules established by the division.

(e) Any amendment or revision to the student discipline policies adopted by a school district shall be submitted to the division within thirty (30) days after the adoption of such amendment or revision.

History. Acts 1983 (1st Ex. Sess.), No. 77, § 2; 1983 (1st Ex. Sess.), No. 104, § 2; A.S.A. 1947, § 80-1629.7; Acts 1991, No. 830, § 1; 1994 (2nd Ex. Sess.), No. 51, §§ 2, 5; 1995, No. 333, § 1; 1995, No. 567, § 2; 2011, No. 835, § 2; 2013, No. 1073, § 29; 2013, No. 1138, § 47; 2019, No. 557, § 4[3]; 2019, No. 640, §§ 5-7; 2019, No. 910, §§ 1532, 1533; 2019, No. 1064, § 4.

Amendments. The 2019 amendment by No. 557 added (b)(3).

The 2019 amendment by No. 640, in (a)(1)(A), substituted "rules" for "guidelines"; substituted "The rules required under subdivision (a)(1)(A) of this section may include" for "Guidelines shall include" in (a)(1)(B); in (a)(1)(C), inserted "required under subdivision (a)(1)(A) of this section", and substituted "physical or mental impairment or disability" for "handicapping condition"; deleted former

(a)(1)(C)(ii); substituted "subchapter" for "section" in the introductory language of (b)(2); added the (b)(2)(A) designation; substituted "hold a valid Arkansas standard teaching license, an ancillary license, a provisional license, a technical permit, or an administrator's license issued by the State Board of Education; and" for "have a state issued educator license as a condition of their employment"; added (b)(2)(B); substituted "rules" for "guidelines" in (d); and made stylistic changes.

The 2019 amendment by No. 910 substituted "Division of Elementary and Secondary Education" for "Department of Education" in (a)(1)(A); and substituted "division" for "department" in (a)(1)(A), (d), and (e).

The 2019 amendment by No. 1064 added (a)(1)(C)(iii) [now (a)(1)(C)(ii)].

6-18-504. Compliance with §§ 6-18-502 and 6-18-503.

(a) The Division of Elementary and Secondary Education shall monitor compliance with the requirements of §§ 6-18-502 and 6-18-503, and the State Board of Education shall adopt rules for the administration of the requirements thereof.

(b) Any school district failing to file with the division disciplinary policies that meet the requirements of this subchapter shall have all state aid funds withheld until such disciplinary policies are filed with the division.

(c) Nothing in § 6-18-502, § 6-18-503, or this section, or any student discipline policies promulgated under § 6-18-502, shall limit or restrict the bringing of criminal charges against any person for violating the criminal laws of this state.

History. Acts 1983 (1st Ex. Sess.), No. 77, § 3; 1983 (1st Ex. Sess.), No. 104, § 3; A.S.A. 1947, § 80-1629.8; Acts 2019, No. 315, § 251; 2019, No. 640, § 8; 2019, No. 910, § 1534.

Amendments. The 2019 amendment by No. 315 deleted “and regulations” following “rules” in (a).

The 2019 amendment by No. 640, in (b), inserted “with the department”, substi-

tuted “disciplinary policies that meet the requirements of this subchapter” for “the disciplinary policy required by § 6-18-503 with the department”, and substituted “policies are filed” for “policy is filed”.

The 2019 amendment by No. 910 substituted “Division of Elementary and Secondary Education” for “Department of Education” in (a); and substituted “division” for “department” twice in (b).

6-18-505, 6-18-506. [Repealed.]

A.C.R.C. Notes. The repeal of § 6-18-505 by Acts 2019, No. 640, § 9, superseded the amendment of § 6-18-505 by Acts 2019, No. 557, § 5[4]. Acts 2019, No. 557 amended subdivision (c)(1) of § 6-18-505 to read: “(c)(1) A teacher or school administrator in a school district that authorizes use of corporal punishment in the district’s written student discipline policy may use corporal punishment, if the punishment is administered in accord with the district’s written student discipline policy, on any pupil, except a child who is intellectually disabled, nonambulatory, nonverbal, or autistic, in order to maintain discipline and order within the public schools”.

The repeal of § 6-18-506 by Acts 2019, No. 640, § 9, superseded the amendment of § 6-18-506 by Acts 2019, No. 910, §§ 1535, 1536. The amendment by Acts

2019, No. 910 substituted “Division of Elementary and Secondary Education” for “Department of Education” in subsection (b) and “division” for “department” in subsection (e).

Publisher’s Notes. These sections, concerning the School Discipline Act and the School Dismissal Act, were repealed by Acts 2019, No. 640, § 9, effective July 24, 2019. The sections were derived from the following sources:

6-18-505. Acts 1977, No. 904, §§ 1, 2; A.S.A. 1947, §§ 80-1629.1, 80-1629.2; Acts 1994 (2nd Ex. Sess.), No. 51, §§ 1, 5; 2013, No. 1073, § 30; 2013, No. 1138, § 48; 2019, No. 557, § 5[4].

6-18-506. Acts 1979, No. 74, §§ 1-3; A.S.A. 1947, §§ 80-1629.3 — 80-1629.5; Acts 1999, No. 1475, § 4; 2019, No. 910, §§ 1535, 1536.

6-18-507. Suspension — Expulsion — Definitions.

(a) As used in this section:

(1) “Course time” means the number of hours of instruction devoted to a single subject during the school week;

(2) “Expulsion” means dismissal from school for a period of time that exceeds ten (10) days;

(3) “Nontraditional scheduling” means block or other alternative scheduling as defined by the Division of Elementary and Secondary Education; and

(4) “Suspension” means dismissal from school for a period of time that does not exceed ten (10) days.

(b)(1) The board of directors of a school district may suspend or expel any student from school for violation of the school district’s written

discipline policies, except that a school district shall not use out-of-school suspension as a discipline measure for truancy.

(2) The school district shall not use out-of-school suspension or expulsion for a student in kindergarten through grade five (K-5) except in cases when a student's behavior:

(A) Poses a physical risk to himself or herself or to others; or

(B) Causes a serious disruption that cannot be addressed through other means.

(c)(1)(A) The board of directors may authorize a teacher or an administrator to suspend any student for a maximum of ten (10) school days for violation of the school district's written discipline policies, subject to appeal to the superintendent or his or her designee.

(B) However, schools that utilize nontraditional scheduling may not suspend students from more course time than would result from a ten-day suspension under the last traditional schedule used by the school district.

(2) If the superintendent initiates the suspension process, the decision may be appealed to the board of directors.

(d)(1) A superintendent may recommend the expulsion of a student for more than ten (10) days for violation of the school district's written discipline policies, subject to appeal to the board of directors and to requirements of the Individuals with Disabilities Education Act, 20 U.S.C. § 1401 et seq.

(2)(A) After hearing all testimony and debate on a suspension, expulsion, or appeal, the board of directors may consider its decision in executive session without the presence of anyone other than the board members.

(B) At the conclusion of an executive session, the board of directors shall reconvene in public session to vote on the suspension, expulsion, or appeal.

(3) A school district board of directors meeting entertaining an appeal shall be conducted in executive session if requested by the parent or guardian of the student provided that after hearing all testimony and debate, the board of directors shall conclude the executive session and reconvene in public session to vote on such appeal.

(e)(1) [Repealed.]

(2)(A) All school districts shall adopt a written policy regarding expulsion of a student for possessing a firearm or other prohibited weapon on school property that shall require parents, guardians, or other persons in loco parentis of a student expelled under this subsection to sign a statement acknowledging that the parents have read and understand current laws regarding the possibility of parental responsibility for allowing a child to possess a weapon on school property.

(B) The statement shall be signed by the parents, guardians, or other persons in loco parentis before readmitting a student or enrolling a student in any public school immediately after the expiration of an expulsion period pursuant to this subsection.

(3)(A) The school administrators and the local school district board of directors shall complete the expulsion process of any student that was initiated because the student possessed a firearm or other prohibited weapon on school property regardless of the enrollment status of the student.

(B) The principal of each school shall report within a week to the division the name, current address, and Social Security number of any student who is expelled for possessing a firearm or other prohibited weapon on school property or for committing other acts of violence.

(C) The expulsion shall be noted on the student's permanent school record.

(D) Nothing in this subdivision (e)(3) shall be construed to limit a superintendent's discretion to modify the expulsion requirement for a student on a case-by-case basis as set out in this subsection.

(4) The division shall maintain information regarding students who are expelled for possessing a firearm or other prohibited weapon on school property or for committing other acts of violence.

(f)(1) Upon suspension of a student, the school shall immediately contact the student's parent or legal guardian to notify the parent or legal guardian of the suspension.

(2) Each parent or legal guardian shall provide the school:

(A)(i) A primary call number.

(ii) If the call number changes, the parent or legal guardian shall notify the school of the new primary call number;

(B) An email address if the parent or legal guardian does not have a telephone; or

(C) A current mailing address if the parent or legal guardian does not have a telephone or email address.

(3) The contact required in this subsection is sufficient if made by:

(A) Direct contact with the parent or legal guardian at the primary call number or in person;

(B) Leaving a voice mail at the primary call number;

(C) Sending a text message to the primary call number;

(D) Email if the school is unable to make contact through the primary call number; or

(E) Regular first-class mail if the school is unable to make contact through the primary call number or email.

(4) The school shall keep a notification log of contacts attempted and made to the parent or legal guardian.

(g) A public school shall indicate on a student's attendance record if a student's absence is the result of an out-of-school suspension.

(h) A public school district and open-enrollment public charter school shall comply with the requirements under § 6-16-1406(g) with respect to courses and services provided to an expelled public school student.

1150, § 1; 2007, No. 159, § 1; 2009, No. 1445, § 1; 2013, No. 1329, §§ 2, 3; 2017, No. 1059, § 1; 2019, No. 640, §§ 10, 11; 2019, No. 709, § 2; 2019, No. 910, §§ 1537-1539.

Amendments. The 2019 amendment by No. 640 repealed (e)(1); deleted the (e)(4)(A) designation; in (e)(4), deleted “establish and” preceding “maintain”, and substituted “information regarding” for “a registry of”; and deleted (e)(4)(B).

The 2019 amendment by No. 709 added (h).

The 2019 amendment by No. 910 substituted “Division of Elementary and Secondary Education” for “Department of Education” in (a)(3); and substituted “division” for “department” in (e)(3)(B) and (e)(4).

6-18-510. Enrollment during expulsion — School policy.

The board of directors of any school district may adopt a policy that any person who has been expelled as a student from any other school district may not enroll as a student until the time of the person’s expulsion has expired, provided that the receiving school district board of directors affords the student the opportunity for a hearing at the time the student is seeking enrollment.

History. Acts 1995, No. 472, § 1; 2019, No. 640, § 12.

Amendments. The 2019 amendment deleted “after a hearing before the board of directors” preceding “any person”, and

added “provided that the receiving school district board of directors affords the student the opportunity for a hearing at the time the student is seeking enrollment”.

6-18-511. Removal by teacher.

(a) Consistent with state and federal law, a teacher may remove a student from class and send him or her to the principal’s or principal’s designee’s office in order to maintain effective discipline in the classroom.

(b) A teacher may remove from class a student:

(1) Who has been documented by the teacher as repeatedly interfering with the teacher’s ability to teach the students in the class or with the ability of the student’s classmates to learn; or

(2) Whose behavior the teacher determines is so unruly, disruptive, or abusive that it seriously interferes with the teacher’s ability to teach the students in the class or with the ability of the student’s classmates to learn.

(c) If a teacher removes a student from class in accordance with subsection (b) of this section, the principal or his or her designee may:

(1) Place the student into another appropriate classroom, into in-school suspension, or into the district’s alternative learning environment, so long as such placement is consistent with the school district’s written student discipline policy;

(2) Return the student to the class; or

(3) Take other appropriate action consistent with the school district’s discipline policy, state law, and federal law.

(d)(1) If a teacher removes a student from class two (2) times during any nine-week grading period or its equivalent as determined by the

Division of Elementary and Secondary Education, the principal or the principal's designee may not return the student to the teacher's class unless a conference is held for the purpose of determining the causes of the problem and possible solutions, with the following individuals present:

- (A) The principal or the principal's designee;
- (B) The teacher;
- (C) The school counselor;
- (D) The parents, guardians, or persons in loco parentis; and
- (E) The student, if appropriate.

(2) The failure of the parents, guardians, or persons in loco parentis to attend the conference provided for in this subsection shall not prevent the conference from being held nor prevent any action from being taken as a result of that conference.

History. Acts 1999, No. 1281, § 1; 2019, No. 640, § 13; 2019, No. 910, § 1540. The 2019 amendment by No. 910 substituted "Division of Elementary and Secondary Education" for "Department of Education" in (d)(1).

Amendments. The 2019 amendment by No. 640 deleted "established in accordance with § 6-18-508 [repealed]" following "environment" in (c)(1).

6-18-514. Antibullying policies — Definitions.

(a) The General Assembly finds that every public school student in this state has the right to receive his or her public education in a public school educational environment that is reasonably free from substantial intimidation, harassment, or harm or threat of harm by another student.

(b) As used in this section:

(1) "Attribute" means an actual or perceived personal characteristic including without limitation race, color, religion, ancestry, national origin, socioeconomic status, academic status, disability, gender, gender identity, physical appearance, health condition, or sexual orientation;

(2)(A) "Bullying" means the intentional harassment, intimidation, humiliation, ridicule, defamation, or threat or incitement of violence by a student against another student or public school employee by a written, verbal, electronic, or physical act that may address an attribute of the other student, public school employee, or person with whom the other student or public school employee is associated and that causes or creates actual or reasonably foreseeable:

(i) Physical harm to a public school employee or student or damage to the public school employee's or student's property;

(ii) Substantial interference with a student's education or with a public school employee's role in education;

(iii) A hostile educational environment for one (1) or more students or public school employees due to the severity, persistence, or pervasiveness of the act; or

(iv) Substantial disruption of the orderly operation of the public school or educational environment.

(B) "Bullying" includes cyberbullying as defined in this section;

(3) "Cyberbullying" means any form of communication by electronic act that is sent with the purpose to:

(A) Harass, intimidate, humiliate, ridicule, defame, or threaten a student, public school employee, or person with whom the other student or public school employee is associated; or

(B) Incite violence against a student, public school employee, or person with whom the other student or public school employee is associated;

(4) "Electronic act" means without limitation a communication or image transmitted by means of an electronic device, including without limitation a telephone, wireless phone or other wireless communications device, computer, or pager;

(5) "Harassment" means a pattern of unwelcome verbal or physical conduct relating to another person's constitutionally or statutorily protected status that causes, or reasonably should be expected to cause, substantial interference with the other's performance in the school environment; and

(6) "Substantial disruption" means without limitation that any one (1) or more of the following occur as a result of the bullying:

(A) Necessary cessation of instruction or educational activities;

(B) Inability of students or educational staff to focus on learning or function as an educational unit because of a hostile environment;

(C) Severe or repetitive disciplinary measures are needed in the classroom or during educational activities; or

(D) Exhibition of other behaviors by students or educational staff that substantially interfere with the learning environment.

(c) Bullying of a public school student or a public school employee is prohibited.

(d) If an alleged incident of bullying occurs during school hours, a public school principal or his or her designee who receives a credible report or complaint of bullying shall:

(1) As soon as reasonably practicable:

(A) Report to a parent or legal guardian of a student believed to be the victim of an incident of bullying that his or her child is the victim in a credible report or complaint of bullying; and

(B) Prepare a written report of the alleged incident of bullying;

(2)(A) Promptly investigate the credible report or complaint.

(B)(i) The investigation conducted under subdivision (d)(2)(A) of this section shall be completed as soon as possible but not later than five (5) school days from the date of the written report of the alleged incident of bullying as required under subdivision (d)(1)(B) of this section.

(ii) Following the completion of the investigation into the alleged incident of bullying conducted under subdivision (d)(2)(A) of this section, an individual licensed as a public school district building-level administrator or his or her designee may without limitation:

- (a) Provide intervention services;
 - (b) Establish training programs to reduce bullying;
 - (c) Impose discipline on any of the parties involved in the incident of bullying;
 - (d) Recommend counseling for any of the parties involved in the incident of bullying; or
 - (e) Take or recommend other appropriate action;
- (3)(A) Notify the parent or legal guardian of the student who is determined to have been the perpetrator of the incident of bullying:
- (i) Upon completion of the investigation under subdivision (d)(2)(A) of this section; and
 - (ii) Regarding the consequences of continued incidents of bullying.
- (B) A parent or legal guardian of a student who is a party to an investigation of an incident of bullying conducted under subdivision (d)(2)(A) of this section is entitled within five (5) school days after the completion of the investigation, and in accordance with federal and state law, to receive information about the investigation, including without limitation:
- (i) That a credible report or complaint of bullying exists;
 - (ii) Whether the credible report or complaint of bullying was found to be true based on the investigation;
 - (iii) Whether action was taken upon the conclusion of the investigation of the alleged incident of bullying; and
 - (iv) Information regarding the reporting of another incident of bullying;
- (4)(A) Make a written record of the investigation and any action taken as a result of the investigation.
- (B) The written record of the investigation shall include a detailed description of the alleged incident of bullying, including without limitation a detailed summary of the statements from all material witnesses to the alleged incident of bullying; and
- (5) Discuss, as appropriate, the availability of counseling and other intervention services with students involved in the incident of bullying.
- (e) One (1) time each school year, the superintendent of a public school district shall report to the public school district board of directors at a public hearing data regarding discipline in the public school district, including without limitation the number of incidents of bullying reported and the actions taken regarding the reported incidents of bullying.
- (f)(1) Each public school district board of directors shall adopt policies to prevent bullying.
- (2) The policies shall:
- (A)(i) Clearly define conduct that constitutes bullying.
 - (ii) The definition under subdivision (f)(2)(A)(i) of this section shall include without limitation the definition contained in subsection (b) of this section;
 - (B) Prohibit:

(i) Bullying while in school, on school equipment or property, in school vehicles, on school buses, at designated school bus stops, at school-sponsored activities, or at school-sanctioned events; or

(ii)(a) Cyberbullying that results in the substantial disruption of the orderly operation of the school or educational environment.

(b) This section applies to cyberbullying whether or not the cyberbullying originated on school property or with school equipment if the cyberbullying is directed specifically at students or school personnel and maliciously intended for the purpose of disrupting school and has a high likelihood of succeeding in that purpose;

(C) State the consequences for engaging in the prohibited conduct, which may vary depending on the age or grade of the student involved;

(D) Require that a school employee who has witnessed or has reliable information that a pupil has been a victim of an incident of bullying as defined by the public school district report the incident to the principal as soon as possible;

(E) Require that any person who files a credible report or makes a complaint of bullying not be subject to retaliation or reprisal in any form;

(F) Require that notice of what constitutes bullying, that bullying is prohibited, and that the consequences of engaging in bullying be conspicuously posted in every classroom, cafeteria, restroom, gymnasium, auditorium, and school bus in the district;

(G)(i) Require that copies of the notice of what constitutes bullying, the prohibition of bullying, and the consequences of engaging in bullying be provided to parents and legal guardians, students, school volunteers, and employees of the public school annually.

(ii) Each policy shall require that a full copy of the policy be made available upon request;

(H) Describe the procedures for reporting an incident of bullying and the steps school employees may take in order to address a report of an alleged incident of bullying as described in this section; and

(I) Include information on how to make an anonymous report to the school safety and crisis line under § 6-18-111.

(3) A notice of the public school district's policies shall appear in any:

(A) Publication of the public school district that sets forth the comprehensive rules, procedures, and standards of conduct for public schools within the public school district; and

(B) Student handbook.

(4) The public school district shall, to the extent required, annually conduct a reevaluation, reassessment, and review of its policies regarding the prohibition of bullying and make any necessary revisions and additions.

(g) A public school district shall provide training on compliance with the anti-bullying policies to all public school district employees responsible for reporting or investigating bullying under this section.

(h) A public school employee who has reported violations under the public school district's policy shall be immune from any tort liability

that may arise from the failure to remedy the reported incident of bullying.

(i) The public school district board of directors may provide opportunities for school employees to participate in programs or other activities designed to develop the knowledge and skills to prevent and respond to acts covered by the public school district's policies.

(j) The public school district shall provide the Division of Elementary and Secondary Education with the website address at which a copy of the policies adopted in compliance with this section may be found.

(k) This section is not intended to:

(1) Restrict a public school district from adopting and implementing policies against bullying and school violence or policies to promote civility and student dignity that are more inclusive than the policies prohibiting bullying required under this section;

(2) Unconstitutionally restrict protected rights of freedom of speech, freedom of religious exercise, or freedom of assembly;

(3) Affect the provisions of any collective bargaining agreement or individual contract of employment in effect on July 24, 2019; or

(4) Alter or reduce the rights of a student with a disability with regard to disciplinary action or to general or special educational services and support.

(l)(1) Nonpublic schools are encouraged to comply with the provisions of this section.

(2) In the case of a faith-based nonpublic school, this section shall not be interpreted to prohibit or abridge the legitimate statement, expression, or free exercise of the beliefs or tenets of any faith by the religious organization operating the school or by the school's faculty, staff, or student body.

History. Acts 2003, No. 681, § 1; 2005, No. 1437, § 1; 2007, No. 115, § 1; 2011, No. 907, § 1; 2013, No. 1073, § 31; 2019, No. 910, § 1541; 2019, No. 1029, §§ 4-6; 2019, No. 1064, § 5.

A.C.R.C. Notes. Acts 2019, No. 1029, § 1 provided: "Legislative findings and intent. The General Assembly finds that:

"(1) A 2016 study, 'Indicators of School Crime and Safety,' published by the United States Department of Justice and the United States Department of Education, reported that twenty-one percent (21%) of students twelve (12) through eighteen (18) years of age reported being bullied at school during the previous school year;

"(2) The same 2016 study also reported that about thirty-three percent (33%) of students who reported being bullied at school indicated that they were bullied at least once or twice a month during the school year;

"(3) A 2017 study by the Centers for Disease Control and Prevention, the Youth Risk Behavior Surveillance study, reported that Arkansas ranks highest in the nation for the percentage of teenagers who were bullied on school property;

"(4) The persistence of school bullying has led to instances of student suicide across the country, including Arkansas;

"(5) Significant research findings have emerged since Arkansas enacted its public school anti-bullying statutes in 2003 and its cyberbullying law in 2011;

"(6) School districts and students, parents, teachers, principals, other school staff, and school district boards of directors would benefit from the establishment of clearer standards regarding what constitutes bullying and how to prevent, report, investigate, and respond to incidents of bullying;

"(7) It is the intent of the General Assembly in enacting this legislation to

strengthen the standards and procedures for preventing, reporting, investigating, and responding to incidents of bullying of students that occur on and off school property;

“(8) Fiscal responsibility requires Arkansas to take a more effective and clearer approach to eliminate school bullying by ensuring that existing resources are better managed and used to make schools safer for students; and

“(9) By strengthening the standards and procedures for the prevention, reporting, and investigation of and the response to incidents of bullying, it is the intent of the General Assembly to reduce the risk of suicide among students and avert not only the needless loss of a young life but also

the tragedy that such loss causes a student's family and the community at large.”

Amendments. The 2019 amendment by No. 910 substituted “Division of Elementary and Secondary Education” for “Department of Education” in (i) [now (j)].

The 2019 amendment by No. 1029 added (b)(2)(B), and redesignated former (b)(2) as (b)(2)(A); rewrote (d); inserted (e); rewrote and redesignated former (e) as (f), and redesignated the remaining subsections accordingly; added (k)(3) and (k)(4); added (l); added (m) [now (b)(3)]; and made stylistic changes.

The 2019 amendment by No. 1064 added (e)(2)(H) [now (f)(2)(I)].

6-18-516. Effective school discipline — Definition.

(a) As used in this section, “exclusionary disciplinary actions” means out-of-school suspension and expulsion.

(b)(1) Annually, the Division of Elementary and Secondary Education shall report at the school, school district, and state level the following data concerning exclusionary disciplinary actions, in-school suspensions, and corporal punishment:

(A) Number per one hundred (100) students for the entire population;

(B) Number per one hundred (100) students for any racial or ethnic subgroup required for accountability by the Every Student Succeeds Act, Pub. L. No. 114-95;

(C) Number per one hundred (100) students for economically disadvantaged students; and

(D) Number per one hundred (100) students for students with disabilities identified under the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq.

(2) The division shall report exclusionary disciplinary actions by both:

(A) Combining out-of-school suspensions and expulsions; and

(B) Separately listing out-of-school suspensions and expulsions.

(c) The division shall report the data required in subsection (b) of this section:

(1) On the website of the division to the extent that publication is consistent with the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g; and

(2) In a manner that reflects historical trends and allows for the comparison of schools and school districts.

(d) The division shall:

(1) Provide school districts with resources for the best practices in effective school discipline; and

(2) Annually communicate to school districts:

(A) The availability of and how to access the data listed in subsection (b) of this section; and

(B) How to access the resources listed in subdivision (d)(1) of this section.

(e) The division, or researcher identified by the division, shall provide an annual report to the State Board of Education analyzing disciplinary infractions, disciplinary actions, and disciplinary disparities existing throughout the state.

History. Acts 2013, No. 1329, § 4; 2017, No. 1015, § 1; 2019, No. 910, §§ 1542-1546.

Amendments. The 2019 amendment substituted “Division of Elementary and

Secondary Education” for “Department of Education” in the introductory language of (b)(1); and substituted “division” for “department” throughout the section.

SUBCHAPTER 7 — HEALTH

SECTION.

- 6-18-701. Physical examinations — Individualized healthcare plans.
- 6-18-702. Immunization.
- 6-18-703. School-based health clinics.
- 6-18-705. Breakfast program.
- 6-18-707. Prescription asthma inhaler or auto-injectable epinephrine — Definitions.
- 6-18-709. Annual reports of school nurse statistics required.
- 6-18-711. Administration of medication for diabetes.

SECTION.

- 6-18-712. Posting Child Abuse Hotline telephone number in public schools and open-enrollment charter schools.
- 6-18-713. Student sudden cardiac arrest education — Definition.
- 6-18-714. Use of sunscreen.
- 6-18-715. Hunger-Free Students’ Bill of Rights Act — Definition.
- 6-18-716. Distribution of excess food — Definition.

Effective Dates. Acts 2019, No. 752, § 23: July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a one (1) year period; that the effectiveness of this Act on July 1, 2019 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the legislative session, the delay in the effective date of this Act beyond July 1, 2019 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2019”.

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health,

and safety shall become effective on July 1, 2019”.

6-18-701. Physical examinations — Individualized healthcare plans.

(a) The board of directors of a school district may appoint and provide for the payment of at least one (1) physician or nurse and assign the physician or nurse to the public schools of the district for the purpose of making physical examinations of the public school students as may be prescribed in the rules of the State Board of Education.

(b) The nature of the examination shall be only to detect contagious or infectious diseases or any defect of sight, hearing, or function or condition of health that may prevent a pupil from receiving the full benefit of school work.

(c) The physician or nurse appointed under subsection (a) of this section shall make examinations for contagious or infectious disease, including without limitation the teeth and mouth, whenever the examination may be deemed necessary and make examination for other defects at least one (1) time in each school year, preferably at or near the beginning of the year.

(d) In a city, town, or county where the health authorities provide for the physical examination of public school students as provided in this section, the examination may not be made by any school physician or school nurse.

(e)(1) A public school student may be excused from the examination under this section on presentation of a certificate from a reputable physician that the physician has recently examined the public school student or on presentation of a written statement of the public school student’s parent or guardian that the parent or guardian objects to the examination of his or her child or ward.

(2) However, subdivision (e)(1) of this section does not apply in the case of a public school student suspected of having a contagious or infectious disease.

(f)(1) A public school student with special healthcare needs, including without limitation a student who has a chronic illness, is considered medically fragile, or who is dependent on technology, shall have an individualized healthcare plan that is developed in collaboration with the school nurse.

(2) An invasive medical procedure required by the public school student and provided at the public school shall be performed by trained and licensed, licensed healthcare provider who is licensed to perform the task under § 17-87-102(10)(D) or other professional licensure statutes, unless otherwise permissible under § 17-87-103(10) and (11).

(3) A regular classroom teacher shall not perform tasks under subdivision (f)(2) of this section, except as otherwise permissible under § 6-18-711(c).

(4) Custodial healthcare services required by a public school student under an individualized healthcare plan shall be provided by trained school employees other than the regular classroom teacher.

History. Acts 1931, No. 169, § 193; Pope's Dig., § 11635; A.S.A. 1947, § 80-1219; Acts 2019, No. 315, § 252; 2019, No. 757, § 35.

Amendments. The 2019 amendment by No. 315 deleted "and regulations" following "rules" in (a).

The 2019 amendment by No. 757 added "Individualized healthcare plans" to the

section heading; rewrote (a); in (b), deleted "such as" following "only", and substituted "that may prevent a" for "tending to prevent any"; rewrote (c) and (d); deleted former (e); rewrote former (f) and redesignated it as (e); and added (f).

6-18-702. Immunization.

(a) Except as otherwise provided by law, no infant or child shall be admitted to a public or private school or childcare facility of this state who has not been age-appropriately immunized from poliomyelitis, diphtheria, tetanus, pertussis, red (rubeola) measles, rubella, and other diseases as designated by the State Board of Health, as evidenced by a certificate of a licensed physician or a public health department acknowledging the immunization.

(b)(1) The responsibility for the enforcement of this section rests equally with each school district of this state and the parent or guardian of the child or pupil, and each of them shall be separately and individually liable for permitting any violation of this section.

(2)(A) The Division of Child Care and Early Childhood Education shall be responsible for enforcing this section with respect to childcare facilities.

(B) The division may promulgate appropriate rules, to be approved by the Arkansas Early Childhood Commission, for the enforcement of this section.

(C) The owners or managers of those facilities and any parent or guardian violating the rules shall be subject to the penalties provided in the Child Care Facility Licensing Act, § 20-78-201 et seq.

(3)(A) A public or private school shall create and maintain a report that provides information regarding the:

(i) Number of students within the public or private school who have been granted from the Department of Health under subsection (d) of this section an exemption from the requirement to obtain one (1) or more vaccinations as required under this section; and

(ii) Percentage of students within the public or private school who have been granted from the Department of Health under subsection (d) of this section an exemption from the requirement to obtain one (1) or more vaccinations as required under this section.

(B) The report required under subdivision (b)(3)(A) of this section shall:

(i) Be updated by December 1 of each year;

(ii) Be posted and available to the public online;

(iii) Include the number of students within the public or private school who have:

(a) Failed to provide to the public or private school proof of the vaccinations required under this section; and

(b) Not obtained an exemption from the Department of Health under this section; and

(iv) Include the percentage of students within the public or private school who have:

(a) Failed to provide to the public or private school proof of the vaccinations required under this section; and

(b) Not obtained an exemption from the Department of Health under this section.

(c)(1)(A)(i) The division shall be responsible for enforcing this section with respect to childcare facilities.

(ii) The division may promulgate appropriate rules for the enforcement of this section.

(B) The owners or managers of those facilities and any parent or guardian violating the rules shall be subject to the penalties provided in the Child Care Facility Licensing Act, § 20-78-201 et seq.

(2)(A) Regarding kindergarten through grade twelve (K-12), the State Board of Education, after having consulted with the State Board of Health, shall promulgate appropriate rules for the enforcement of this section by school district boards of directors, superintendents, and principals.

(B) Any school official, parent, or guardian violating the rules shall be subject to the penalties imposed in this section.

(d)(1)(A) The State Board of Health shall promulgate rules to ensure that all exemptions provided by this section shall have a minimal effect on the health and safety of all children attending day care or kindergarten through grade twelve (K-12).

(B) The rules shall provide for, but are not limited to, the tracking of those children with exemptions so that appropriate steps may be taken in the event of an outbreak or epidemic.

(2) The Department of Health, and no other department or entity, shall grant exemptions provided by this section.

(3) If in the discretion of the health authority having jurisdiction or of any physician licensed to practice by the Arkansas State Medical Board any person to whom this section applies shall be deemed to have a physical disability that may contraindicate vaccination, a certificate to that effect issued by the health officer may be accepted in lieu of a certificate of vaccination, provided that the exemption shall not apply when the disability shall have been removed.

(4)(A) This section shall not apply if the parents or legal guardian of that child object thereto on the grounds that immunization conflicts with the religious or philosophical beliefs of the parent or guardian.

(B) The parents or legal guardian of the child shall complete an annual application process developed in the rules of the Department of Health for medical, religious, and philosophical exemptions.

(C) The rules developed by the Department of Health for medical, religious, and philosophical exemptions shall include, but not be limited to:

(i) A notarized statement requesting a religious, philosophical, or medical exemption from the Department of Health by the parents or legal guardian of the child regarding the objection;

(ii) Completion of an educational component developed by the Department of Health that includes information on the risks and benefits of vaccination;

(iii) An informed consent from the parents or guardian that shall include a signed statement of refusal to vaccinate based on the Department of Health's refusal-to-vaccinate form; and

(iv) A signed statement of understanding that:

(a) At the discretion of the Department of Health, the unimmunized child or individual may be removed from day care or school during an outbreak if the child or individual is not fully vaccinated; and

(b) The child or individual shall not return to school until the outbreak has been resolved and the Department of Health approves the return to school.

(D) No exemptions may be granted under this subdivision (d)(4) until the application process has been implemented by the Department of Health and completed by the applicant.

(5) Furthermore, the provisions of this section requiring pertussis vaccination shall not apply to any child with a sibling, either whole blood or half blood, who has had a serious adverse reaction to the pertussis antigen, which reaction resulted in a total permanent disability.

(e) Any person found guilty of violating this section or the rules promulgated by the State Board of Education or the division for the enforcement of this section shall be guilty of a violation and upon conviction shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100) for each offense.

History. Acts 1967, No. 244, §§ 1-3; 1973, No. 633, § 1; 1983, No. 150, § 1; A.S.A. 1947, §§ 80-1548 — 80-1550; Acts 1997, No. 871, § 1; 1999, No. 1222, §§ 1, 2; 2003, No. 999, § 1; 2005, No. 1994, § 185; 2019, No. 315, §§ 253-259; 2019, No. 676, § 2.

A.C.R.C. Notes. Acts 2019, No. 676, § 1, provided: "Legislative intent. The General Assembly finds that:

"(1) Forty-six (46) states throughout the United States allow exemptions based on religious or philosophical beliefs to vaccination requirements for public and private school students;

"(2) Continued allowance for exemptions to vaccination requirements for pub-

lic and private school students creates the opportunity for outbreaks of a number of preventable diseases, which poses a nationwide health crisis; and

"(3) Reasonable steps should be taken in order to fully inform parents and legal guardians of public and private school students regarding the number and percentage of students within a public or private school who have been granted exemptions from or have failed to fulfill the requirement to obtain certain vaccinations in order to attend public or private school in Arkansas."

Amendments. The 2019 amendment by No. 315 deleted "and regulations" following "rules" in (b)(2)(B), (c)(1)(A)(ii),

(c)(2)(A), (d)(1)(A), (d)(4)(B), and in the introductory language of (d)(4)(C); and substituted “rules” for “regulations” in (b)(2)(C), (c)(1)(B), (c)(2)(B), and (e). The 2019 amendment by No. 676 added (b)(3).

6-18-703. School-based health clinics.

(a)(1)(A)(i) No school-based health clinic may be established in a public school until requested by resolution by the school district board of directors, and no child shall receive school-based health clinic services without parental consent.

(ii) Parental consent to contraceptive services and condom distribution shall be specific, in writing, and maintained in the student's health records.

(B)(i) All school-based clinics shall maintain accurate records of the distributing and prescribing of contraceptives and condoms.

(ii) The number of pregnancies and sexually transmitted diseases among students in the schools with school-based clinics shall be transmitted annually to the school district board of directors.

(iii) Records maintained under this section are part of the confidential medical record of the student.

(iv) Numerical or statistical data required to be maintained under this subsection may not be released in a manner that reveals the identity of or any other information contained in the file of the student.

(2) If the board of directors establishes a school-based health clinic, the board of directors shall retain absolute control over the operations and programs offered by the clinic.

(3) Schools that offer sex education in school-based health clinics shall include instruction in sexual abstinence, and no funds shall be utilized for abortion referral.

(b) When any local school district board of directors elects to maintain a school-based health clinic in the school, any Department of Health employee working in the clinic shall be subject to the supervision and control of the school district board of directors.

(c)(1) No state funds shall be used for the purchase or dispensing of contraceptives or abortifacients in public schools.

(2) Local school district boards of directors retain the sole authority over whether and to what extent family planning education is provided in clinics, including any purchase or distribution of contraceptives.

(3) Notice of family planning clinic intentions by a school district shall be given thirty (30) days in advance of a public meeting of the school district board of directors.

(d)(1) It is hereby recognized that sexual activity by students places our youths at increased risk of pregnancy and the contraction of acquired immune deficiency syndrome and other sexually transmitted diseases, and it is the policy of the State of Arkansas to discourage such sexual activity.

(2) The school district board of directors of every school district that associates itself with distributing, recommending, or prescribing con-

doms or contraceptives shall adopt a resolution acknowledging that there are risks associated with teen sexual activities.

(3) It is further required that every public school and public health department sex education and acquired immune deficiency syndrome prevention program shall emphasize premarital abstinence as the only sure means of avoiding pregnancy and the sexual contraction of acquired immune deficiency syndrome and other sexually transmitted diseases.

(e) State funds shall not be used for abortion referrals or abortion services in public schools.

History. Acts 1991, No. 1035, § 1; 1991, No. 1181, §§ 30, 36, 38; 1993, No. 1173, § 36; 2019, No. 752, § 18. **Amendments.** The 2019 amendment added (e).

6-18-705. Breakfast program.

(a)(1) Beginning with the 1991-1992 school year, any schools located in a school district in which forty percent (40%) or more of the students enrolled in the school on October 1 of the preceding school year were eligible for free or reduced-price meals shall establish a school breakfast program.

(2) Beginning with the 1992-1993 school year, any schools located in a school district in which thirty-five percent (35%) or more of the students enrolled in the school on October 1 of the preceding school year were eligible for free or reduced-price meals shall establish a school breakfast program.

(3) Beginning with the 1993-1994 school year, any schools located in a school district in which twenty percent (20%) or more of the students enrolled in the school on October 1 of the preceding school year were eligible for free or reduced-price meals shall establish a school breakfast program.

(b) Nothing in this section shall be interpreted to prevent a school district not covered herein from implementing a school breakfast program or to prevent a school district from implementing a school breakfast program during an earlier year than required under this section.

(c) The Division of Elementary and Secondary Education may promulgate rules necessary for implementation of this section in compliance with federal regulations and guidelines.

(d)(1)(A) The State Board of Education may grant a one-year waiver of the requirements of this section to a school covered by this section that lacks facilities or equipment to offer a school breakfast program and in which the acquisition of such by the district would work an extreme hardship during the required year.

(B) However, such waiver shall expire and may not be renewed at the beginning of the following school year.

(2) In any high school under the requirements of this section, if fifty percent (50%) or more of the eligible students refuse to participate in

the school breakfast program during any year of the program as demonstrated by sufficient proof to the division, the state board may grant a waiver from the requirements of this section to the high school.

(e) The division is hereby authorized to withhold state equalization aid from any school district that fails to comply with the provisions of this section.

History. Acts 1991, No. 826, § 1; 1991, No. 1127, § 1; 1999, No. 391, § 13; 2019, No. 315, § 260; 2019, No. 910, §§ 1547-1549.

Amendments. The 2019 amendment by No. 315, in (c), deleted “and regulations” following “rules” and inserted “regulations and” following “federal”.

The 2019 amendment by No. 910 substituted “Division of Elementary and Secondary Education” for “Department of Education” in (c); and substituted “division” for “department” in (d)(2) and (e).

6-18-707. Prescription asthma inhaler or auto-injectable epinephrine — Definitions.

(a) This section shall be known and may be cited as “Alex’s Law”.

(b) As used in this section:

(1)(A) “Medication” means a drug as that term is defined in 21 U.S.C. § 321(g) of the Federal Food, Drug and Cosmetic Act as in existence on January 1, 2005.

(B) “Medication” includes inhaled bronchodilators and auto-injectable epinephrine; and

(2) “Self-administration” means a person’s discretionary use of a medication pursuant to a prescription or written direction from a licensed healthcare practitioner.

(c)(1) The Division of Elementary and Secondary Education shall develop guidelines for use in school districts that allow a student to carry and use an asthma inhaler or auto-injectable epinephrine, or both, while in school, at an on-site school-sponsored activity, or at an off-site school-sponsored activity.

(2)(A) The procedure shall include at a minimum the following provisions:

(i) The parent or guardian of a student who needs to carry an asthma inhaler or auto-injectable epinephrine, or both, shall provide the school with written authorization for the student to carry an asthma inhaler or auto-injectable epinephrine, or both, on his or her person for use while in school, at an on-site school-sponsored activity, or at an off-site school-sponsored activity; and

(ii) The authorization shall be valid only for the duration of the school year at the school that the student is attending at the time the authorization is provided. The authorization must be renewed for each school year or if the student changes schools in order for the student to carry an asthma inhaler or auto-injectable epinephrine, or both, on his or her person.

(B) The parent or guardian of a student who needs to carry an asthma inhaler or auto-injectable epinephrine, or both, shall provide

the school with appropriate medical documentation, which shall include:

(i) Evidence that the asthma inhaler or auto-injectable epinephrine, or both, have been prescribed by a healthcare practitioner with prescriptive privileges;

(ii) Evidence that the student needs to carry the asthma inhaler or auto-injectable epinephrine, or both, on his or her person due to a medical condition; and

(iii) A copy of an individualized healthcare plan for the student.

(C) All medical documentation provided with regard to a student who carries an asthma inhaler or auto-injectable epinephrine, or both, shall be kept on file at the school the student attends in a location that is readily accessible in the event of an asthma or anaphylaxis emergency.

(D) A student's asthma inhaler or auto-injectable epinephrine, or both, shall be supplied by the student's parent or guardian and shall be stored and transported in its original prescription-labeled container.

(E) The student shall demonstrate to the healthcare practitioner who wrote the prescription and the school nurse, if the school nurse is available, the skill level and responsibility necessary to use and administer the asthma inhaler or auto-injectable epinephrine, or both.

(F)(i) A student with asthma is not required by this section or any related rule or school procedure to carry the student's asthma inhaler or auto-injectable epinephrine, or both, on his or her person.

(ii) If a student with asthma does not carry the student's asthma inhaler or auto-injectable epinephrine, or both, on his or her person, then the student's parent or guardian shall provide the school with appropriate medication in the event of an asthma or anaphylaxis emergency, which shall be immediately available to the student in an emergency.

(G) A student who carries the student's asthma inhaler or auto-injectable epinephrine, or both, on his or her person may provide the school with appropriate medication in the event of an asthma or anaphylaxis emergency, which shall be immediately available to the student in an emergency.

(H) A student is prohibited from sharing, transferring, or in any way diverting his or her own medications to any other person.

(d)(1) A school district, school district employee, or agent of a school district is not liable for injury to a student caused by his or her use of a prescription inhaler or self-administration of medication.

(2)(A) Regardless of whether or not a student's parents have signed a waiver of liability, when a school nurse or a school district or public charter school employee who holds a certificate under subsection (f) of this section administers an epinephrine auto-injector to a student whom the school nurse or a school district or public charter school employee in good faith professionally believes is having an anaphy-

lactic reaction or when a school nurse or a school district or public charter school employee administers albuterol to a student who the school nurse or a school district or public charter school employee in good faith professionally believes is in perceived respiratory distress, the following persons are immune from any damage, loss, or liability as a result of an injury arising from the administration of an epinephrine auto-injector or albuterol:

- (i) The school district or public charter school;
- (ii) The employees and agents of the school district or public charter school; and
- (iii) A physician providing a standing protocol or prescription for epinephrine auto-injectors or albuterol maintained at a school.

(B) This subdivision (d)(2) does not provide immunity from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of a person in administering an epinephrine auto-injector or albuterol to a student under this section.

(e)(1) A school district or public charter school shall adopt a policy to authorize a school nurse or a school district or public charter school employee to:

(A) Provide an epinephrine auto-injector or albuterol to a student that meets the prescription on file or any personnel who holds a certificate under subsections (f) and (g) of this section to administer an epinephrine auto-injector or albuterol to the student;

(B) Administer an epinephrine auto-injector or albuterol that meets the prescription on file to a student who has an individualized healthcare plan that authorizes the use of an epinephrine auto-injector or albuterol;

(C) Administer an epinephrine auto-injector to a student who the school nurse or a school district or public charter school employee who holds a certificate under subsection (f) of this section in good faith professionally believes is having an anaphylactic reaction; and

(D) Administer albuterol to a student who the school nurse or a school district or public charter school employee in good faith professionally believes is in perceived respiratory distress.

(2) A school nurse shall administer an epinephrine auto-injector or albuterol under a standing protocol from a physician licensed to practice medicine in this state.

(3) A school nurse who receives a supply of epinephrine auto-injectors under § 20-13-405 for use at a public school shall maintain the supply of epinephrine auto-injectors at the school in a locked, secure location.

(4) Each school district and public charter school shall develop a health plan to implement a certificate from a licensed physician under subsections (f) and (g) of this section.

(f)(1) A licensed physician shall issue a certificate under the Insect Sting and Other Allergic Reactions Emergency Treatment Act, § 20-13-401 et seq., authorizing a school nurse or a school district or public

charter school employee who is trained in the administration of epinephrine to possess and administer epinephrine.

(2) The certificate shall specify the circumstances under which epinephrine may be administered.

(g)(1) A physician who is licensed to practice medicine in this state, an advanced practice registered nurse, or a physician assistant may issue a certificate authorizing a school nurse or a school district or public charter school employee who is trained in the administration of albuterol to possess and administer albuterol.

(2) A school district or public charter school may:

(A) Acquire and stock a supply of albuterol as authorized by subdivision (g)(1) of this section; and

(B) Enter into agreements with manufacturers of albuterol to obtain the albuterol free of charge or at fair market or reduced prices.

(3) A school district or public charter school shall designate an employee trained in the possession and administration of albuterol to be responsible for the storage, maintenance, and distribution of albuterol stocked by the school.

History. Acts 2005, No. 1694, § 1; 2013, No. 757, § 1; 2013, No. 1437, § 1; 2019, No. 190, § 2; 2019, No. 851, §§ 1, 2; 2019, No. 910, §§ 1550, 1551.

Amendments. The 2019 amendment by No. 190 deleted “prepared in accordance with § 6-18-1005 and any related rules of the department” from the end of (c)(2)(B)(iii).

The 2019 amendment by No. 851 added (d)(2) and redesignated former (d) as (d)(1); in the introductory language of (e)(1), substituted “shall adopt a policy to” for “may” and inserted “or a school district

or public charter school employee”; rewrote (e)(1)(A) and (e)(1)(C); inserted “or albuterol” in (e)(1)(B) twice and in (e)(2); added (e)(1)(D); deleted former (e)(4), the introductory language of (f), and (f)(1); rewrote and redesignated former (f)(2) as (e)(4); deleted former (g); redesignated former (h) as (f); added (g); and made stylistic changes.

The 2019 amendment by No. 910 substituted “Division of Elementary and Secondary Education” for “Department of Education” in (c)(1); and substituted “division” for “department” in (c)(2)(B)(iii).

6-18-709. Annual reports of school nurse statistics required.

Annually, by August 31, a school district shall report the following to the Division of Elementary and Secondary Education:

- (1) The number of full-time nurses employed by the school district;
- (2) The number of part-time nurses employed by the school district;
- (3) The number of full-time nurses with whom the school district contracts for service;
- (4) The number of part-time nurses with whom the school district contracts for service;
- (5) The level of licensure of each nurse working in the school district;
- (6) The highest degree obtained for each nurse working in the school district;
- (7) The amount of pay, including without limitation the source of funding, for each nurse working in the school district; and
- (8) The number of students in the school district that are in each nursing acuity level as follows:

(A) Level 1 for students with occasional health concerns and routine health screenings at a ratio of one (1) school nurse per seven hundred fifty (750) students;

(B) Level 2 for students with healthcare concerns and those that require an individualized healthcare plan at a ratio of one (1) school nurse per four hundred (400) students;

(C) Level 3 for students with medically complex conditions at a ratio of one (1) school nurse per two hundred twenty-five (225) students;

(D) Level 4 for students with medically fragile conditions at a ratio of one (1) school nurse per one hundred twenty-five (125) students; and

(E) Level 5 for students that are nursing dependent at a ratio of one (1) school nurse per one (1) student.

History. Acts 2013, No. 414, § 2; 2015, No. 935, § 1; 2019, No. 692, § 8; 2019, No. 757, § 36; 2019, No. 910, §§ 1552-1558.

A.C.R.C. Notes. Pursuant to Acts 2019, No. 692, § 18, the amendment to the introductory language of subsection (g) of this section (now the introductory language of the section) by Acts 2019, No. 692, § 8, is superseded by the amendment to this section by Acts 2019, No. 757, § 36.

Acts 2019, No. 692, § 18, provided: “CONSTRUCTION AND LEGISLATIVE INTENT. It is the intent of the General Assembly that:

“(1) The enactment and adoption of this act shall not expressly or impliedly repeal an act passed during the regular session of the Ninety-Second General Assembly;

“(2) To the extent that a conflict exists between an act of the regular session of the Ninety-Second General Assembly and this act:

“(A) The act of the regular session of the Ninety-Second General Assembly shall be treated as a subsequent act passed by the General Assembly for the purposes of:

“(i) Giving the act of the regular session of the Ninety-Second General Assembly its full force and effect; and

“(ii) Amending or repealing the appropriate parts of the Arkansas Code of 1987; and

“(B) Section 1-2-107 shall not apply; and

“(3) This act shall make only technical, not substantive, changes to the Arkansas Code of 1987.”

Amendments. The 2019 amendment by No. 692 substituted “Annual reports of school nurse statistics required” for “Public School Health Services Advisory Committee” in the section heading; deleted former (a) through (f) and (h); removed the former (g) designation; and substituted “On July 1 of each year, each” for “Annually, beginning on July 1, 2015, a” in the introductory language.

The 2019 amendment by No. 757 substituted “by August 31” for “beginning on July 1, 2015” in the introductory language of (g) [now the introductory language of the section]; and inserted “without limitation the” in (g)(7) [now (7)].

The 2019 amendment by No. 910 substituted “Secretary of the Department of Health” for “Director of the Department of Health” in the introductory language of (a)(2); substituted “Commissioner of Elementary and Secondary Education” for “Commissioner of Education” in the introductory language of (a)(3); and substituted “Division of Elementary and Secondary Education” for “Department of Education” throughout the section.

6-18-711. Administration of medication for diabetes.

(a) Upon written request of a parent or guardian of a student with diabetes and authorization by the treating physician of the student, a student in the classroom, in another area designated at the school, on school grounds, or at a school-related activity may:

- (1) Perform blood glucose checks;
 - (2) Administer insulin through the insulin delivery system the student uses;
 - (3) Treat hypoglycemia and hyperglycemia; and
 - (4) Possess on his or her person the necessary supplies and equipment to perform diabetes monitoring and treatment functions.
- (b) A student shall have access to a private area to perform diabetes monitoring and treatment functions upon request of the parent or guardian of a student, as outlined in the student's health plan.
- (c) A public school employee may volunteer to be trained to administer and may administer glucagon to a student with Type 1 diabetes in an emergency situation as permitted under § 17-87-103(11).

History. Acts 2015, No. 833, § 1; 2019, No. 757, § 37.

Amendments. The 2019 amendment added (c).

6-18-712. Posting Child Abuse Hotline telephone number in public schools and open-enrollment charter schools.

- (a) Each public school and open-enrollment charter school shall post a sign that contains the toll-free telephone number for the Child Abuse Hotline established by the Department of Human Services and the Division of Arkansas State Police under § 12-18-301.
- (b)(1) The sign in subsection (a) of this section shall be:
- (A) Placed in a clearly visible location in the school;
 - (B) Placed in a public area of the school that is readily accessible to students;
 - (C) Legible in English and in Spanish; and
 - (D) Formatted in a manner that is clear, simple, and understandable to students and in compliance with the requirements under subsection (c) of this section.
- (2) In addition to the requirements listed under subdivision (b)(1) of this section, each school shall post the sign in each male or female student restroom in the school in a manner that allows for private access to the information by a student.
- (c) The information contained on the sign shall:
- (1) Be presented on a poster at least eleven inches by seventeen inches (11" x 17") in size;
 - (2) Be presented in large print;
 - (3) Be placed at eye level to the student for easy viewing;
 - (4) Display the Child Abuse Hotline number in bold print;
 - (5) Contain instructions to call 911 for emergencies; and
 - (6) Contain directions for accessing the website of the Division of Children and Family Services for more information on reporting abuse, neglect, and exploitation.
- (d)(1) The Division of Elementary and Secondary Education shall administer the requirements under this section.

(2) The Division of Elementary and Secondary Education may adopt rules in compliance with this section to carry out the requirements under this section.

History. Acts 2017, No. 379, § 1; 2019, No. 910, §§ 1559, 1560.

Amendments. The 2019 amendment substituted “Division of Arkansas State Police” for “Department of Arkansas State

Police” in (a); and substituted “Division of Elementary and Secondary Education” for “Department of Education” in (d)(1) and (d)(2).

6-18-713. Student sudden cardiac arrest education — Definition.

(a)(1) As used in this section, “athletic activity” means an organized athletic activity that is sponsored or associated with a school and in which the participants, a majority of whom are under nineteen (19) years of age are:

(A) Engaged in an athletic game or competition against another team, club, or entity; or

(B) In practice or preparation for an organized athletic game or competition against another team, club, or entity.

(2) As used in this section, “athletic activity” includes without limitation:

(A) Interscholastic athletics;

(B) Cheerleading, whether or not the cheerleading is competitive;

(C) Club-sponsored sports activities; and

(D) Sports activities sponsored by school-affiliated organizations.

(b) The Division of Elementary and Secondary Education shall develop guidelines and other relevant materials to inform and educate school officials, teachers, athletic coaches, students, and parents about the nature and warning signs of sudden cardiac arrest, including the risks associated with continuing to participate in or practice an athletic activity when experiencing any of the following symptoms:

(1) Fainting or seizures during exercise;

(2) Unexplained shortness of breath;

(3) Chest pain;

(4) Dizziness;

(5) Racing heart beat; or

(6) Extreme fatigue.

(c) A school may hold an informational meeting before the start of each athletic activity season regarding the symptoms and warning signs of sudden cardiac arrest for the following individuals:

(1) Student competitors of all ages;

(2) Parents or legal guardians;

(3) Coaches and athletic trainers;

(4) Healthcare professionals, including without limitation physicians and pediatric cardiologists; and

(5) Other school officials.

(d) Before participation in an athletic activity and before each school year while participating in an athletic activity, a student and the parent

or legal guardian of the student shall sign and return an acknowledgement of receipt and review of an information sheet regarding sudden cardiac arrest.

(e)(1) If a student faints or loses consciousness while participating in or immediately following an athletic activity, the athletic director, coach, or athletic trainer shall remove the student from participation in the athletic activity at that time.

(2)(A) If a student exhibits any symptom as described in subdivisions (b)(2) through (b)(6) of this section while participating in or immediately following an athletic activity and an athletic trainer reasonably believes that the symptom is cardiac-related, the athletic trainer may remove the student from participation in the athletic activity at that time.

(B) A coach who observes a student exhibiting any symptom as described in subdivisions (b)(2) through (b)(6) of this section while participating in or immediately following an athletic activity shall notify the parent or legal guardian of the student's symptom.

(3) A student who is removed from participation in an athletic activity shall not be permitted to return to participation in an athletic activity until the student is evaluated and cleared for return to participation in writing by a licensed medical physician in the State of Arkansas.

(4) A coach, athletic director, school nurse, or athletic trainer acting in good faith under this section is not liable for any action or inaction unless the coach, athletic director, school nurse, or athletic trainer is acting in a grossly negligent or reckless manner.

(f) All sponsors of youth athletic activities are encouraged to follow the guidelines developed by the Department of Health.

History. Acts 2017, No. 1013, § 3; substituted "Division of Elementary and Secondary Education" for "Department of Education" in (b).
2019, No. 910, § 1561.

Amendments. The 2019 amendment Education" in (b).

6-18-714. Use of sunscreen.

(a) A student may possess and use a topical sunscreen to avoid overexposure to the sun without written authorization from a parent, legal guardian, or healthcare professional while on school property or at a school-related event or activity if the sunscreen is approved by the United States Food and Drug Administration for over-the-counter use.

(b) A member of school personnel may assist a student in the application of sunscreen with the permission of a parent or guardian.

(c) This section does not:

(1) Require a member of school personnel to assist a student in the application of sunscreen; or

(2) Create any liability or immunity for a school or a member of school personnel.

(d) The Division of Youth Services is exempt from this section.

History. Acts 2019, No. 247, § 2.

A.C.R.C. Notes. Acts 2019, No. 247, § 1, provided: “Legislative findings and intent.

“(a) The General Assembly finds that:

“(1) Cancer is the second leading cause of death in Arkansas;

“(2) Skin cancer, the most common form of cancer in the United States:

“(A) Is caused by overexposure to ultraviolet light; and

“(B) Can be prevented by protecting skin from ultraviolet light;

“(3) Melanoma of the skin is the most dangerous form of skin cancer;

“(4) According to American Cancer Society estimates, approximately sixteen thousand one hundred thirty (16,130) Arkansans will be diagnosed with cancer in 2018, with six hundred seventy (670) of those individuals likely to be diagnosed with melanoma of the skin;

“(5) Approximately six thousand nine hundred ten (6,910) Arkansans are estimated to die due to cancer in 2018;

“(6) The Centers for Disease Control and Prevention recommends protecting skin from ultraviolet light by:

“(A) Staying in the shade;

“(B) Wearing:

“(i) Clothing that covers the wearer’s arms and legs;

“(ii) A hat with a wide brim to shade the wearer’s face, head, ears, and neck; and

“(iii) Sunglasses that wrap around the wearer’s eye area and block ultraviolet light; and

“(C) Using sunscreen with a sun protection factor of fifteen (SPF 15) or higher

with broad spectrum protection from long-wave ultraviolet A (UVA) and short-wave ultraviolet B (UVB) rays;

“(7) The Centers for Disease Control and Prevention also recommends applying sunscreen with a sun protection factor of fifteen (SPF 15) or higher before going outside;

“(8) Research presented by the Centers for Disease Control and Prevention indicates that even one (1) blistering sunburn during childhood or adolescence can increase a person’s chance of developing melanoma of the skin;

“(9)(A) Sunscreen is categorized as an over-the-counter drug by the United States Food and Drug Administration.

“(B) Many state policies address and restrict administration and use of over-the-counter drugs at school;

“(10) Among high school students, only thirteen percent (13%) of girls and seven percent (7%) of boys reported in 2013 that they routinely used a sunscreen with a sun protection factor of fifteen (SPF 15) or higher when they were outside for more than one (1) hour on a sunny day;

“(11) Several states, including Alabama, Louisiana, Oklahoma, and Texas, have enacted legislation to address the student use of sunscreen in schools; and

“(12) Schools can provide additional protections to the children of this state without creating additional costs.

“(b) It is the intent of the General Assembly to allow the use of sunscreen in schools without a physician authorization.”

6-18-715. Hunger-Free Students’ Bill of Rights Act — Definition.

(a) This section shall be known and may be cited as the “Hunger-Free Students’ Bill of Rights Act”.

(b) As used in this section, “school” means a tax-supported kindergarten through grade twelve (K-12) public school that participates in the United States Department of Agriculture National School Lunch Program.

(c) A school shall not:

(1) Provide a student requesting a meal or snack under this section a meal or snack that is different from the meal or snack being provided to other students in the school; or

(2) Prevent a student from accessing the school’s meal or snack services.

(d) If a student owes money for a meal or snack that is in excess of the amount charged a student for five (5) lunches, or another amount as determined by the student's school district, a school may contact the parent or guardian of the student to:

(1) Attempt collection of the owed money; and

(2) Request that the parent or guardian apply for meal benefits in a federal or state child nutrition program.

(e) If a student is unable to pay for a meal or snack or owes money for a meal or snack, a school shall not:

(1) Require the student to wear a wristband;

(2) Give the student a hand stamp;

(3) Require the student to dispose of a meal or snack after the student is served the meal or snack;

(4) Require the student to sit in a location separate from other students;

(5) Publicly make known the name of the student; or

(6) Perform any other action that may stigmatize the student.

(f)(1) The Child Nutrition Unit shall:

(A) Implement a system for reviewing the local practices of public school district food service programs to determine the support needed by public school districts; and

(B) Provide model policies that public school districts may adopt.

(2) The system of review established under subdivision (f)(1)(A) of this section shall address areas regarding without limitation:

(A) Ideas, innovations, and best practices for providing meals to vulnerable populations that contribute to the health and well-being of public school students;

(B) Resources and strategies for improving the nutritional quality and appeal of meals;

(C) Tips for implementing best practices;

(D) Methods for informing parents and legal guardians of a public school district's meal charge policies; and

(E) Plans for recovering costs for meal charges.

History. Acts 2019, No. 428, § 1.

6-18-716. Distribution of excess food — Definition.

(a)(1) As used in this section, "excess food" means any food that remains after a school has served breakfast and lunch to students during a school day.

(2) "Excess food" does not include any food that has expired, been opened, or been consumed.

(b) A public school or an open-enrollment public charter school may distribute excess food to students enrolled in the public school or open-enrollment public charter school.

(c)(1) The method by which a public school or open-enrollment public charter school distributes excess food shall be established by the public school or open-enrollment public charter school in accordance with the

United States Department of Agriculture and the United States Food and Drug Administration requirements and guidelines for the distribution of excess food and in consultation with the Department of Health guidelines.

(2) A public school or open-enrollment public charter school may develop a policy describing the process for distributing excess food under this section, saving excess food for later consumption, or donating excess food.

History. Acts 2019, No. 602, § 1.

SUBCHAPTER 9 — STUDENT RECORDS

SECTION.

6-18-901. Maintenance of permanent student records.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

6-18-901. Maintenance of permanent student records.

(a) The Division of Elementary and Secondary Education, at the direction of the State Board of Education and in cooperation with any other appropriate state agencies, shall develop and publish an itemized listing of all information to be maintained in a student’s permanent record during enrollment in a school district in this state.

(b) The permanent student record shall include all information concerning educational programming including statewide student assessments required under the Arkansas Educational Support and Accountability Act, § 6-15-2901 et seq.

(c) Each school district shall maintain a permanent student record for each student.

(d)(1)(A) A copy of the permanent student record shall be provided to the receiving school district upon the transfer of a student to another district.

(B) The school district shall provide the copy of the student’s permanent student record to the receiving school district within ten

(10) school days after the date a request from the receiving school district is received.

(C) The school district shall not fail or refuse to provide a copy of the student's permanent student record to the receiving school district because the student owes money to the school district for school-related charges, including without limitation charges for:

- (i) Food services;
- (ii) Unreturned library books; or
- (iii) Fees.

(2) Upon request by the Division of Youth Services, a copy of the education record, as defined by rules promulgated by the Division of Elementary and Secondary Education, shall be transmitted to the Division of Youth Services within ten (10) school days.

(e) The permanent student record shall be maintained by each school district until the student receives a high school diploma or its equivalent or is beyond the age for compulsory attendance under § 6-18-201.

(f) Nothing in this section shall be construed to prevent the maintenance of a permanent student record by electronic database provided that a copy of the record can be produced for transmittal to another district upon the transfer of the student.

History. Acts 1991, No. 355, § 1; 2005, No. 1998, § 1; 2007, No. 1573, § 26; 2017, No. 936, § 50; 2019, No. 315, § 261; 2019, No. 910, §§ 1562, 1563.

Amendments. The 2019 amendment by No. 315 substituted "rules" for "regulations" in (d)(2).

The 2019 amendment by No. 910 substituted "Division of Elementary and Secondary Education" for "Department of Education" in (a) and (d)(2); and substituted "Division of Youth Services" for "division" in (d)(2).

SUBCHAPTER 10 — PUBLIC SCHOOL STUDENT SERVICES ACT

SECTION.

6-18-1001 — 6-18-1009. [Repealed.]

6-18-1001 — 6-18-1009. [Repealed.]

A.C.R.C. Notes. The repeal of § 6-18-1005 by Acts 2019, No. 190, § 3, superseded the amendment of § 6-18-1005 by Acts 2019, No. 1091, § 2. The amendment by Acts 2019, No. 1091 deleted subdivision (a)(7) and made technical changes.

The repeal of §§ 6-18-1004, 6-18-1007, and 6-18-1008 by Acts 2019, No. 190, § 3, superseded the amendment of those sections by Acts 2019, No. 910, §§ 1564-1566. The amendments by Act 910 substituted "Division of Elementary and Secondary Education" for "Department of Education" and "division" for "department" and deleted obsolete provisions.

Publisher's Notes. This subchapter, concerning the Public School Student Ser-

vices Act, was repealed by Acts 2019, No. 190, § 3, effective July 24, 2019. The subchapter was derived from the following sources:

- 6-18-1001. Acts 1991, No. 908, § 1.
- 6-18-1002. Acts 1991, No. 908, § 2.
- 6-18-1003. Acts 1991, No. 908, § 8.
- 6-18-1004. Acts 1991, No. 908, §§ 4, 5; 1997, No. 1275, § 1; 2005, No. 1949, § 1; 2019, No. 910, § 1564.
- 6-18-1005. Acts 1991, No. 908, §§ 3, 6; 1997, No. 1275, § 2; 1999, No. 1565, § 1; 2003, No. 681, § 2; 2005, No. 1757, § 2; 2005, No. 1949, § 2; 2007, No. 1573, §§ 27, 28; 2011, No. 1172, § 1; 2011, No. 1204, § 2; 2015, No. 1115, § 6; 2017, No. 745, § 27; 2019, No. 1091, § 2.

6-18-1006. Acts 1991, No. 908, §§ 4, 7.
6-18-1007. Acts 1993, No. 1313, § 38;
1995, No. 1196, § 29; 1997, No. 112, § 12;
1997, No. 1275, § 3; 1999, No. 391, § 14;
2019, No. 910, § 1565.
6-18-1008. Acts 1997, No. 1362, § 30;
2019, No. 910, § 1566.
6-18-1009. Acts 2005, No. 1949, § 3.
For current law, see § 6-18-2001 et seq.

SUBCHAPTER 11 — ELEMENTARY SCHOOL FUNDRAISING

SECTION.

6-18-1104. Procedure for participation.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

6-18-1104. Procedure for participation.

- (a) Schools must provide written notification of the following to parents of all elementary school students who participate in fundraising programs:
- (1) Student participation in fundraising programs is voluntary;
 - (2) Students who do not participate will not forfeit any school privileges;
 - (3) Students may not participate in fundraising programs without written parental permission returned to school authorities;
 - (4) An elementary school student who sells fundraising merchandise door to door must be accompanied by a parent or an adult; and
 - (5) Unless the school provides supervision, parents must accept responsibility for appropriate adult supervision.
- (b) A one-page form for parental notification and permission shall be developed by the Division of Elementary and Secondary Education in cooperation with school administrators and the Arkansas Parent Teacher Association.
- (c)(1) Fundraising companies shall incorporate a safety instructional component as part of all fundraising programs used by schools.
- (2) A fundraising company shall have discretion in selecting the methods used to communicate safety.

History. Acts 1993, No. 525, § 3; 2019, No. 910, § 1567.
Amendments. The 2019 amendment substituted “Division of Elementary and

Secondary Education” for “Department of Education” in (b).

SUBCHAPTER 12 — ARKANSAS STUDENT PUBLICATIONS ACT

SECTION.

6-18-1202. Written policy.

6-18-1203. Students’ right of expression.

SECTION.

6-18-1204. Prohibited publications.

6-18-1205. Definitions.

6-18-1202. Written policy.

Each school district board of directors shall adopt rules in the form of a written student media policy developed in conjunction with the student media advisors and the appropriate school administrators, consistent with the other provisions of this subchapter, which shall include reasonable provisions for the time, place, and manner of distributing school-sponsored media.

History. Acts 1995, No. 1109, § 2; 2019, No. 912, § 1.

Amendments. The 2019 amendment substituted “media policy” for “publica-

tions policy”, “media advisors” for “publication advisors”, and “school-sponsored media” for “student publications”.

6-18-1203. Students’ right of expression.

(a) Student media policies shall recognize that students may exercise their right of expression guaranteed by United States Constitution, Amendment 1.

(b)(1) This right includes expression in school-sponsored media, whether such student media are supported financially by the school or by use of school facilities, or are produced in conjunction with a class, except as provided in § 6-18-1204.

(2)(A) Expression made by a student journalist in student media is not the expression of a school district’s policy.

(B) The following individuals shall not be held responsible in any civil or criminal action for any expression made or published by a student journalist in student media unless the individual interfered with, altered, or made substantial decisions with respect to the content of the student expression:

- (i) A public school district official; and
- (ii) A member of a public school district board of directors.

History. Acts 1995, No. 1109, § 3; 2019, No. 912, § 1.

Amendments. The 2019 amendment, in (a), inserted “media” following “Student” and substituted “guaranteed by the First Amendment to the Constitution of the United States” for “within the frame-

work outlined in § 6-18-1202”; added the (b)(1) designation; in (b)(1), substituted “school-sponsored media” for “school-sponsored publications” and substituted “student media are” for “publications are”; and added (b)(2).

6-18-1204. Prohibited publications.

Student publications policies shall recognize that truth, fairness, accuracy, and responsibility are essential to the practice of journalism, and that the following types of student media by student journalists are not authorized:

- (1) Student media that are obscene as to minors, as defined by state law;
- (2) Student media that are libelous or slanderous, as defined by state law;
- (3) Student media that constitute an unwarranted invasion of privacy, as defined by state law;
- (4) Student media that so incite students as to create:
 - (A) A clear and present danger of the commission of unlawful acts on school premises;
 - (B) The violation of lawful school rules; or
 - (C) The material and substantial disruption of the orderly operation of the school; and
- (5) Student media that harass, threaten, or intimidate a student.

History. Acts 1995, No. 1109, § 4; Acts 2019, No. 912, § 1. tions” throughout the section; substituted “student journalists” for “students” in the introductory language; and added (5).

Amendments. The 2019 amendment substituted “student media” for “publica-

RESEARCH REFERENCES

ALR. Invasion of Privacy by Use of Plaintiff’s Name or Likeness in Advertising — Purported Endorsement of Product or Services, 17 A.L.R.7th Art. 2 (2018).

6-18-1205. Definitions.

As used in this subchapter:

- (1) “Student journalist” means a student who gathers, writes, edits, photographs, records, videotapes, or prepares information for dissemination in student media;
- (2)(A) “Student media” means any means of communication that are:
 - (i) Prepared, substantially written, published, or broadcasted by a student;
 - (ii) Distributed or generally made available, either free of charge or for a fee, to members of the student body; and
 - (iii) Prepared under the direction of a student media advisor.
- (B) “Student media” does not include media that is intended for distribution or transmission solely in the classroom in which it is produced; and
- (3) “Student media advisor” means an individual who is employed, appointed, or designated by a public school district to supervise or provide instruction with respect to student media.

History. Acts 2019, No. 912, § 2.

SUBCHAPTER 13 — PARENTAL AUTHORIZATION OF QUESTIONNAIRES ACT

SECTION.

6-18-1302. Definitions.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

6-18-1302. Definitions.

As used in this subchapter:

- (1) “Personal identifying information” means:
 - (A) A student’s name;
 - (B) The name of a student’s parent or a member of the student’s family;
 - (C) The address, telephone number, or email address of a student or a member of the student’s family;
 - (D) A personal identification number such as a Social Security number, driver’s license number, or student identification number of a student or a member of the student’s family; or
 - (E) Any information, the disclosure of which is regulated or prohibited by any other state law, state rule, federal law, or federal regulation;
- (2) “Public school” means any school operated by a public school district or any open-enrollment public charter school, as defined in § 6-23-103;
- (3) “Public school district” means a local school district, as defined in § 6-20-303 [repealed]; and
- (4)(A) “Questionnaire or survey” means a list or group of questions, responses to which are provided to a person or an entity other than a public school, a public school district, the Division of Elementary and Secondary Education, or any branch of the United States Government.
 - (B) “Questionnaire or survey” does not include:
 - (i) Tests mandated by state law, state rule, federal law, or federal regulation; or
 - (ii) Standardized scholastic achievement tests.

History. Acts 2003, No. 1100, § 1; 2019, No. 315, §§ 262, 263; 2019, No. 910, § 1568.

Amendments. The 2019 amendment by No. 315 substituted “state law, state rule, federal law, or federal regulation” for “state or federal law or regulation” in (1)(E) and (4)(B)(i).

The 2019 amendment by No. 910, in (4)(A), substituted “Division of Elementary and Secondary Education” for “Department of Education” and made a stylistic change.

SUBCHAPTER 15 — MANDATED EYE AND VISION SCREENING PROCEDURES AND TESTS FOR CHILDREN

SECTION.
6-18-1501. Vision screenings.
6-18-1502. Eye exams.

SECTION.
6-18-1503. Forms.
6-18-1504. Training.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

6-18-1501. Vision screenings.

- (a)(1)(A)(i) Beginning with the 2006-2007 school year, all children in prekindergarten (preK), kindergarten (K), grades one (1), two (2), four (4), six (6), and eight (8) and all transfer students shall receive an eye and vision screening.
- (ii) This requirement applies to public schools and public charter schools.
- (B)(i) The Division of Elementary and Secondary Education shall ensure the provision of all general revenues necessary to access federal funds for eye and vision screenings for all qualified federal healthcare program recipients.
- (ii) The school district shall be responsible for all remaining costs associated with eye and vision screenings.
- (C) Nothing in this subchapter shall preclude voluntary screening of any educational grade or preclude the referral of any child regardless of grade who the teacher or school nurse feels should be screened or examined.
- (2) The responsibility for the enforcement of this section rests equally with each school district or public charter school and the parent or guardian of the child.

(b) An eye and vision screening shall include the following tests, procedures, equipment, and instruments approved by the Arkansas Commission on Eye and Vision Care of School-Age Children and the division:

- (1) Observation and external inspection of the eye;
- (2) Distance visual acuity test using a Snellen eye chart at twenty feet (20') or an age or developmentally appropriate chart at ten feet (10') outside a vision screening instrument;
- (3) A plus lens visual acuity test using a Snellen eye chart at twenty feet (20') or an age or developmentally appropriate chart at ten feet (10') outside a vision screening instrument; and
- (4) Visual screening instrument tests, which include:
 - (A) Lateral muscle balance test at far;
 - (B) Vertical muscle balance test at far;
 - (C) Fusion or binocularity at far;
 - (D) Lateral muscle balance test at near;
 - (E) Fusion or binocularity at near; and
 - (F) Color perception.

(c) A child who fails an eye and vision screening shall be rescreened within one (1) month of the initial screening by the school nurse or a school vision care consultant.

(d)(1) An eye and vision screening report shall be sent or given to each parent or guardian of each child who has failed the vision screening test.

(2) The report shall identify whether the child passed or failed the screening and the need for a comprehensive eye and vision examination.

(3) The report shall be mailed or given directly to the parent or guardian by the appropriate school personnel and shall comply with all applicable privacy laws.

History. Acts 2005, No. 1438, § 1; 2019, No. 910, §§ 1569, 1570.

Amendments. The 2019 amendment substituted "Division of Elementary and Secondary Education" for "Department of Education" in (a)(1)(B)(i); and substituted "division" for "department" in the introductory language of (b).

6-18-1502. Eye exams.

(a)(1) A child who does not pass the eye and vision screening tests, except for the color perception test, shall be required to have a comprehensive eye and vision examination conducted by an optometrist or ophthalmologist within sixty (60) days of receipt of the vision screening report identifying the need for the examination.

(2) The parent or guardian of the child shall be responsible for ensuring that the child receives the appropriate eye and vision examination.

(b)(1) If a child does not receive an appropriate examination, as evidenced by a certificate signed by an optometrist or ophthalmologist acknowledging the examination, then the public school or public

charter school where the child is registered shall report the child to the Division of Elementary and Secondary Education.

(2) The local school district shall take such action as necessary to encourage that the child receive an appropriate examination.

(c) A child who has had a comprehensive eye and vision examination conducted by an optometrist or ophthalmologist within six (6) months of an eye and vision screening is not required to have another examination if the parent or guardian of the child presents evidence of a comprehensive eye and vision examination in the form of a certificate signed by an optometrist or ophthalmologist acknowledging the examination.

History. Acts 2005, No. 1438, § 1; substituted “Division of Elementary and Secondary Education” for “Department of Education” in (b)(1).
2019, No. 910, § 1571.

Amendments. The 2019 amendment

6-18-1503. Forms.

(a) Standardized forms for eye and vision screening reports shall be developed by the Division of Elementary and Secondary Education in conjunction with the Arkansas Commission on Eye and Vision Care of School-Age Children and adopted by the division in rules promulgated under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(b) The standardized forms shall include:

- (1) A screening form;
- (2) A parent notification form;
- (3) A doctor report form;
- (4) A form to report the results of screening and examination; and
- (5) Any other forms deemed necessary by the commission.

(c) Every public school and public charter school shall use the standardized forms for eye and vision screening reports.

History. Acts 2005, No. 1438, § 1; The 2019 amendment by No. 910 substituted “Division of Elementary and Secondary Education” for “Department of Education” and “division” for “department” in (a).
2019, No. 315, § 264; 2019, No. 910, § 1572.

Amendments. The 2019 amendment by No. 315 substituted “rules” for “regulations” in (a).

6-18-1504. Training.

The Division of Elementary and Secondary Education, in conjunction with the Arkansas Commission on Eye and Vision Care of School-Age Children, shall adopt rules that establish standards for training school nurses to perform eye and vision screenings.

History. Acts 2005, No. 1438, § 1; The 2019 amendment by No. 910 substituted “Division of Elementary and Secondary Education” for “Department of Education”.
2019, No. 315, § 265; 2019, No. 910, § 1573.

Amendments. The 2019 amendment by No. 315 substituted “rules” for “regulations”.

SUBCHAPTER 16 — UNIVERSAL ACT ASSESSMENT PROGRAM ACT

SECTION.

- 6-18-1602. Definitions.
- 6-18-1603. Creation.
- 6-18-1604. Purpose.

SECTION.

- 6-18-1606. Implementation.
- 6-18-1607. Rules.
- 6-18-1608. Reporting.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

6-18-1602. Definitions.

As used in this subchapter:

(1) “ACT Assessment” means a test of student educational development that measures student readiness for future learning and that may be used by institutions of higher education as part of their admissions, placement, and scholarship processes and by high schools to improve college and workforce readiness; and

(2) “Smart Core” means:

(A) The college and career readiness curriculum by that name under the rules of the State Board of Education; or

(B) A college and career readiness curriculum that is:

(i) Established by rules of the state board in coordination with the Division of Higher Education; and

(ii) Substituted for the curriculum named “Smart Core”.

History. Acts 2007, No. 881, § 1; 2009, No. 1469, § 8; 2013, No. 1462, § 2; 2019, No. 910, § 1574.

Amendments. The 2019 amendment

substituted “Division of Higher Education” for “Department of Higher Education” in (2)(B)(i).

6-18-1603. Creation.

There is created in the Division of Elementary and Secondary Education the Universal ACT Assessment Program to be developed, implemented, and administered by the division as provided in this subchapter.

History. Acts 2007, No. 881, § 1; 2013, No. 1462, § 3; 2019, No. 910, § 1575.

Amendments. The 2019 amendment substituted “Division of Elementary and

Secondary Education” for “Department of Education” and “division” for “department”.

6-18-1604. Purpose.

The purpose of the Universal ACT Assessment Program is to:

- (1) Improve the college readiness of all students in grade eleven (11);
- (2) Prevent or minimize the continued remediation of nearly fifty percent (50%) of all students entering Arkansas institutions of higher education in one (1) or more subjects because they do not meet the college readiness score of nineteen (19) or higher on the ACT Assessment;
- (3) Advance the number of students, including students of low income, English-language learners, and minority students, taking the ACT Assessment while in grade eleven (11) to increase the number of first-generation college students;
- (4) Increase the college participation rates among all racial and ethnic groups;
- (5) Improve preparation for college and the workforce;
- (6) Improve the course selection patterns of high school students;
- (7) Increase the early identification of college-ready students;
- (8) Support students participating in the Smart Core by providing a baseline for their college and workforce readiness and an opportunity to benefit from earlier remediation or course selection review; and
- (9) Provide a link between what students have learned, what they need to learn, and what is necessary in order to be college or workforce ready or both by providing expectations and measuring their progress.

History. Acts 2007, No. 881, § 1; Acts 2013, No. 1462, § 4; 2019, No. 692, § 9. deleted “such as the College Preparatory Enrichment Program” following “remediation” in (8).

Amendments. The 2019 amendment

6-18-1606. Implementation.

(a) Beginning with the 2017-2018 school year, the Universal ACT Assessment Program may provide each student in grades nine (9), ten (10), eleven (11), or twelve (12) with the opportunity to take the ACT Assessment while in grades nine (9), ten (10), eleven (11), or twelve (12) without any charge by using school district funding, including National School Lunch Act funds, 42 U.S.C. § 1751 et seq., to pay for the exams as approved by the Division of Elementary and Secondary Education.

(b) A public school district shall allow a student to choose to take the ACT Assessment under subsection (a) of this section in grade ten (10) or grade eleven (11).

History. Acts 2007, No. 881, § 1; 2013, No. 1462, § 5; 2017, No. 601, § 1; 2019, No. 910, § 1576. substituted “Division of Elementary and Secondary Education” for “Department of Education” in (a).

Amendments. The 2019 amendment

6-18-1607. Rules.

The Division of Higher Education and the Division of Elementary and Secondary Education shall develop rules for the administration of this subchapter.

History. Acts 2007, No. 881, § 1; 2019, No. 910, § 1577.

Amendments. The 2019 amendment substituted “Division of Higher Educa-

tion” for “Department of Higher Education” and “Division of Elementary and Secondary Education” for “Department of Education”.

6-18-1608. Reporting.

The Division of Higher Education and the Division of Elementary and Secondary Education shall submit a combined annual report to the Legislative Council by December 1 of each year that establishes compliance with this subchapter, provides data on the number of participants in the Universal ACT Assessment Program, and outlines the impact of this program on the college readiness of high school seniors and the remediation rates at institutions of higher education.

History. Acts 2007, No. 881, § 1; 2013, No. 1462, § 7; 2019, No. 910, § 1578.

Amendments. The 2019 amendment substituted “Division of Higher Educa-

tion” for “Department of Higher Education” and “Division of Elementary and Secondary Education” for “Department of Education”.

SUBCHAPTER 18 — ARKANSAS COMMISSION ON EYE AND VISION CARE OF SCHOOL-AGE CHILDREN

SECTION.

6-18-1803. Duties.

6-18-1804. [Repealed.]

6-18-1803. Duties.

(a) The Arkansas Commission on Eye and Vision Care of School-Age Children shall:

(1) Study the eye and vision needs of the school-age children of Arkansas;

(2) Study and evaluate vision screening programs in the schools, and their effectiveness;

(3) Study and evaluate whether children are receiving adequate eye and vision care, and correction of vision problems;

(4) Study the effects of inadequate vision on the performance of children in the classroom; and

(5) Continue to develop a strategic statewide plan to ensure adequate eye and vision care of school-age children.

(b) The commission and the Division of Elementary and Secondary Education shall report their findings and updates to the Governor, the Legislative Council, and the House Committee on Public Health, Welfare, and Labor and the Senate Committee on Public Health, Welfare, and Labor annually.

(c)(1) The commission may accept any and all donations, grants of money, gifts, appropriations, instruments, equipment, supplies, materials, and services, conditional or otherwise, from private sources, from municipal and county governments, from the state, and from the United States Government.

(2) The commission may use any of its resources to further the commission’s purposes and functions.

(3) All moneys collected under this section shall be deposited into a cash fund within the State Treasury to be maintained by the division.

(d) The commission shall develop criteria for the distribution of commission resources to individuals and school districts in need of financial or other assistance necessary to satisfy the requirements of §§ 6-18-1501 — 6-18-1506.

(e)(1) In conjunction with the division, the commission shall develop criteria for passage or failure of a vision screening and criteria for referral for a comprehensive eye examination.

(2) The division shall adopt the criteria as rules promulgated under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(f) In conjunction with the division, the commission shall develop standardized forms to be used with regard to conducting and reporting the results of eye and vision screenings.

(g) The commission and the division shall evaluate and approve the vision screening instruments, equipment, and other testing items that are used to conduct the eye and vision screenings.

(h) The commission shall conduct a pilot study to evaluate the pre- and post-performance test scores of school children who have been screened and referred for vision problems. The study shall encompass rural, urban, and Empowerment-Zone school systems.

History. Acts 2003, No. 755, § 3; 2005, No. 1438, § 2; 2007, No. 138, § 1; 2019, No. 757, §§ 38, 39.

Amendments. The 2019 amendment substituted “annually” for “two (2) times per year” at the end of (b); redesignated (c)(1)(A) as (c)(1) and (c)(1)(B) as (c)(2);

deleted (c)(2)(A); redesignated (c)(2)(B)(i) as (c)(3); substituted “a cash fund within the State Treasury to be maintained by the division” for “the State Treasury to the credit of the fund as special revenues” in (c)(3); and deleted (c)(2)(B)(ii), (c)(2)(B)(iii), (c)(2)(C), and (c)(2)(D).

6-18-1804. [Repealed.]

Publisher’s Notes. This section, concerning funding, was repealed by Acts 2019, No. 757, § 40, effective July 24,

2019. The section is derived from Acts 2003, No. 755, § 4.

SUBCHAPTER 19 — PUBLIC SCHOOL CHOICE ACT OF 2015

SECTION.
6-18-1904. General provisions.
6-18-1905. Application for a transfer.

SECTION.
6-18-1906. Limitations.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

6-18-1904. General provisions.

(a) The transfer of a student under the Arkansas Public School Choice Act of 1989, § 6-18-206 [repealed], or the Public School Choice Act of 2013, § 6-18-1901 et seq., is not voided by this subchapter and shall be treated as a transfer under this subchapter.

(b)(1) A student may accept only one (1) school choice transfer per school year.

(2)(A) A student who accepts a public school choice transfer may return to his or her resident district during the school year.

(B) If a transfer student returns to his or her resident district or enrolls in a private or home school, the student’s transfer is voided, and the student shall reapply if the student seeks a future school choice transfer.

(c)(1) A transfer student attending a nonresident school under this subchapter may complete all remaining school years at the nonresident district.

(2) A present or future sibling of a student who continues enrollment in the nonresident district under this subsection and applies for a school choice transfer under § 6-18-1905 may enroll in the nonresident district if the district has the capacity to accept the sibling without adding teachers, staff, or classrooms or exceeding the regulations, rules, or standards established by law.

(3) A present or future sibling of a student who continues enrollment in the nonresident district and who enrolls in the nonresident district under subdivision (c)(2) of this section may complete all remaining school years at the nonresident district.

(d)(1) The transfer student or the transfer student’s parent is responsible for the transportation of the transfer student to and from the school in the nonresident district where the transfer student is enrolled.

(2) The nonresident district may enter into a written agreement with the student, the student’s parent, or the resident district to provide the transportation.

(e) For purposes of determining a school district’s state aid, a transfer student is counted as a part of the average daily membership of the nonresident district where the transfer student is enrolled.

History. Acts 2013, No. 1227, § 6; substituted “regulations, rules, or standards” for “regulations and standards” in 2015, No. 560, § 5; 2017, No. 1066, §§ 1, 2; 2019, No. 315, § 266. (c)(2).

Amendments. The 2019 amendment

6-18-1905. Application for a transfer.

(a) If a student seeks to attend a school in a nonresident district, the student’s parent shall submit an application:

(1) To the nonresident district with a copy to the student’s resident district;

(2)(A) On a form approved by the Division of Elementary and Secondary Education.

(B) If a student has a parent or guardian who is an active-duty member of the military and who has been transferred to and resides on a military base, then the student’s parent or guardian shall file an application for transfer under this section within fifteen (15) days of the parent’s or guardian’s arrival on the military base, which shall include without limitation the parent’s or guardian’s:

(i) Military transfer orders; and

(ii) Proof of residency on the military base; and

(3)(A) Postmarked no later than May 1 of the year in which the student seeks to begin the fall semester at the nonresident district.

(B) However, if a student has a parent or guardian who is an active-duty member of the military, then the student’s application for a transfer under this section is not subject to the May 1 deadline under subdivision (a)(3)(A) of this section if the student’s parent or legal guardian:

(i) Has been transferred to and resides on a military base; and

(ii) Provides military transfer orders that confirm the date of transfer to the military base.

(b) Both the nonresident district and the resident district shall, upon receipt of the application, place a date and time stamp on the application that reflects the date and time each district received the application.

(c) A nonresident district shall review and make a determination on each application in the order in which the application was received by the nonresident district.

(d) Before accepting or rejecting an application, a nonresident district shall determine whether:

(1) One (1) of the limitations under § 6-18-1906 applies to the application; and

(2)(A) The resident district has met its numerical net maximum limit on school choice transfers under § 6-18-1906.

(B) The nonresident district shall contact the resident district to determine whether the resident district has met its net maximum limit under subdivision (d)(2)(A) of this section.

(C) In determining whether a resident district has met its net maximum limit on school choice transfers under subdivision (d)(2)(A)

of this section, the nonresident district shall review and make a determination on each application in the order in which the application was received by the nonresident district.

(D) If the resident district has met its numerical net maximum limit on school choice transfers, the nonresident district shall issue a rejection of the affected school choice application.

(E)(i) If an applicant under this section has been rejected due to the numerical net maximum limit, then the applicant shall retain priority for a transfer under this subchapter until July 1 and be reconsidered when the resident district is no longer at the numerical net maximum limit.

(ii) The resident district shall promptly notify the nonresident district when it is no longer at its numerical net maximum limit.

(e)(1) Except as provided in subdivision (e)(4) of this section, by July 1 of the school year in which the student seeks to enroll in a nonresident district under this subchapter, the superintendent of the nonresident district shall notify the parent and the resident district in writing as to whether the student's application has been accepted or rejected.

(2) If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the reason for rejection.

(3) If the application is accepted, the superintendent of the nonresident district shall state in the notification letter a reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null.

(4) The July 1 deadline under subdivision (e)(1) of this section does not apply in the case of an application received from a student who has a parent or guardian who is an active-duty member of the military and who has been transferred to and resides on a military base.

History. Acts 2013, No. 1227, § 6; 2015, No. 560, § 6; 2017, No. 1066, § 3; 2019, No. 171, §§ 3, 4; 2019, No. 754, §§ 2, 3; 2019, No. 910, § 1579.

Amendments. The 2019 amendment by No. 171 added the (a)(2)(A) designation; added (a)(2)(B); added the (a)(3)(A) designation; added (a)(3)(B); added "Except as provided in subdivision (e)(4) of this section" in (e)(1); and added (e)(4).

The 2019 amendment by No. 754 substituted "with a copy to the student's resident district" for "which shall notify the resident district of the filing of the appli-

cation within ten (10) calendar days of receipt of the application" in (a)(1); in (b), substituted "Both the nonresident district and the resident district shall" for "A nonresident district that receives an application under subsection (a) of this section shall" and "each district" for "the nonresident district"; redesignated part of (d) as (d)(1); and added (d)(2).

The 2019 amendment by No. 910 substituted "Division of Elementary and Secondary Education" for "Department of Education" in (a)(2) [now (a)(2)(A)].

6-18-1906. Limitations.

(a)(1) If the provisions of this subchapter conflict with a provision of an enforceable desegregation court order or a district's court-approved desegregation plan, either of which explicitly limits the transfer of students between school districts, the provisions of the order or plan shall govern.

(2) Annually by January 1, a school district that claims a conflict under subdivision (a)(1) of this section shall submit proof from a federal court to the Division of Elementary and Secondary Education that the school district has a genuine conflict under an active desegregation order or active court-approved desegregation plan that explicitly limits the transfer of students between school districts.

(3) Proof submitted under subdivision (a)(2) of this section shall contain the following:

(A) Documentation that the desegregation order or court-approved desegregation plan is still active and enforceable; and

(B) Documentation showing the specific language the school district believes limits its participation in the school choice provisions of this subchapter.

(4)(A) Within thirty (30) calendar days of receipt of proof under subdivision (a)(2) of this section, the division shall notify the school district whether it is required to participate in the school choice provisions of this subchapter.

(B) The division may reject incomplete submissions.

(C) If the division does not provide a written exemption to the school district, then the school district shall be required to participate in the school choice provisions of this subchapter.

(5) The division shall maintain on its website a list of school districts that are not required to participate in the school choice provisions of this subchapter.

(6) The State Board of Education may review a decision of the division upon written petition of the affected school district and may affirm or reverse the decision of the division under the rules promulgated by the state board to implement this subsection.

(b)(1)(A) There is established a numerical net maximum limit on school choice transfers each school year from a school district, less any school choice transfers into the school district, under this section of not more than three percent (3%) of the enrollment that exists in the school district as of October 1 of the immediately preceding school year.

(B) If the application for a transfer that causes the school district to meet or exceed the three-percent numerical net maximum limit under subdivision (b)(1)(A) of this section is on behalf of a sibling group, then the school district shall allow all siblings in the sibling group to exercise school choice under this subchapter.

(C) A student eligible to transfer to a nonresident district under § 6-15-430(c)(1) [repealed], the Arkansas Opportunity Public School Choice Act, § 6-18-227, § 6-18-233, or § 6-21-812 shall not count against the cap of three percent (3%) of the resident or nonresident district.

(2) Annually by December 15, the division shall report to each school district the net maximum number of school choice transfers for the next school year.

(3) If a student is unable to transfer due to the limits under this subsection, the resident district shall give the student priority for a

transfer in the first school year in which the district is no longer subject to subdivision (b)(1) of this section in the order that the resident district receives notices of applications under § 6-18-1905, as evidenced by a notation made by the district on the applications indicating date and time of receipt.

History. Acts 2013, No. 1227, § 6; 2015, No. 560, § 6; 2017, No. 988, § 2; 2017, No. 1066, § 4; 2018 (2nd Ex. Sess.), No. 9, § 1; 2018 (2nd Ex. Sess.), No. 14, § 1; 2019, No. 754, § 4; 2019, No. 910, §§ 1580-1582.

Amendments. The 2019 amendment by No. 754 substituted “October 1” for “October 15” in (b)(1)(A).

The 2019 amendment by No. 910 substituted “Division of Elementary and Secondary Education” for “Department of Education” in (a)(2); and substituted “division” for “department” throughout the section.

SUBCHAPTER 20 — SCHOOL COUNSELING IMPROVEMENT ACT OF 2019

SECTION.

6-18-2001. Title.

6-18-2002. Definitions.

6-18-2003. Comprehensive school counseling program and plan framework.

SECTION.

6-18-2004. Comprehensive student services.

6-18-2005. Monitoring and support.

6-18-2001. Title.

This subchapter shall be known and may be cited as the “School Counseling Improvement Act of 2019”.

History. Acts 2019, No. 190, § 4.

6-18-2002. Definitions.

As used in this subchapter:

(1) “Administrative activities” means activities that are not directly related to the comprehensive school counseling plan and are absent of any direct student services or interaction;

(2) “Direct services” means services that are provided through face-to-face contact with students, including without limitation:

(A) Regular classroom guidance limited to forty-minute class sessions, not to exceed three (3) class sessions per day and not to exceed ten (10) class sessions per week;

(B) Individual and group counseling;

(C) Responsive services on behalf of students whose immediate personal concerns and problems put the student’s academic, career, or social and emotional development at risk, including the administration of a risk assessment; and

(D) Interventions for students who are:

(i) At risk of dropping out of school; or

(ii) Exhibiting dangerous behaviors, such as drug use, self-harm, or gang activity; and

(3) "Indirect services" means consultations between a student, a parent or legal guardian, school staff, and community agencies concerning a student's academic, career, and social and emotional needs.

History. Acts 2019, No. 190, § 4.

6-18-2003. Comprehensive school counseling program and plan framework.

(a) Each public school district shall:

(1) Develop and implement a comprehensive school counseling program that ensures student services are coordinated in a manner that provides comprehensive support to all students; and

(2) Have a written plan for a comprehensive school counseling program that:

(A) Is implemented by an Arkansas-certified school counselor, a counselor serving under an additional licensure plan, or a school employee acting as a school counselor under a waiver granted under § 6-15-103(c);

(B) Utilizes state and nationally recognized counselor frameworks;

(C) Is reviewed annually and updated as needed by the school counselor in collaboration with the building administrator and other stakeholders;

(D) Is systemically aligned to kindergarten through grade twelve (K-12) within the public school district; and

(E) Contains the following four (4) components of a comprehensive school counseling program:

(i) Foundation, which includes without limitation:

(a) Vision statements;

(b) Mission statements; and

(c) Program goals;

(ii) Management, which utilizes assessments and other data to develop, implement, and evaluate a comprehensive school counseling program;

(iii) Delivery, which focuses on direct and indirect services through the implementation of a comprehensive school counseling program; and

(iv) Accountability, which ensures regular analysis of the comprehensive school counseling program that is provided.

(b) The comprehensive school counseling program required under subsection (a) of this section shall:

(1) Guide students in academic pursuits, career planning, and social and emotional learning;

(2) Follow the comprehensive school counseling program guidance provided by the Division of Elementary and Secondary Education;

(3) Include goals that are developed annually based on the vision and mission statements that are shared by stakeholders to ensure equitable access to opportunities for all students; and

(4) Identify student needs through a multilevel school data review that includes without limitation:

- (A) Data analysis;
- (B) Use-of-time data review;
- (C) Program results data; and
- (D) Communication and contact with administrators, parents, students, and stakeholders.

History. Acts 2019, No. 190, § 4.

6-18-2004. Comprehensive student services.

(a) Sufficient time at each public school shall be allotted for the school counselor to carry out the duties stated in the comprehensive school counseling plan required under § 6-18-2003.

(b)(1) A school counselor shall spend at least ninety percent (90%) of his or her working time during student contact days providing direct services and indirect services to students.

(2) Direct and indirect services may be provided in collaboration with other school personnel and include without limitation:

(A) Intervening with students who are at risk of dropping out of school to determine if there is a way to keep at-risk students in school;

(B) Following up with high school graduates;

(C) Providing orientation programs for new students and transferring students at each level of education;

(D) Providing academic advisement services, including without limitation:

(i) Developing an individual planning system to guide a student to access and monitor the student's own educational, career, and social and emotional progress;

(ii) Guiding a student along the pathways to graduation;

(iii) Guiding a student in goal-setting experiences and course selection aligned with the student's postsecondary goals;

(iv) Addressing accelerated learning opportunities;

(v) Addressing academic deficits and the accessibility of resources;

(vi) Providing student assessment reviews, interest inventories, or academic results needed to develop, review, and revise a student's plan of study; and

(vii) Providing support for students who show potential so they are more likely to engage in rigorous coursework and take advantage of postsecondary opportunities;

(E) Providing a career planning process that includes without limitation:

(i) Guidance in understanding the relationship between classroom performance and success in school and beyond;

(ii) The provision of resources to identify career interests and aptitudes to assist a student in age-appropriate college and career planning;

(iii) Guidance in understanding the advantages of completing career certifications and internships;

(iv) Interpretation of augmented, criterion-referenced, or norm-referenced assessments for students and parents;

(v) The provision of information to a parent or legal guardian, such as through workshops on preparing for college, financial aid, and career opportunities; and

(vi) Encouragement to a parent or legal guardian to support partnerships in his or her student's learning and career planning processes;

(F) Providing social and emotional skills designed to support students, including without limitation programs:

(i) To promote cultural and social awareness, positive communication and relationship skills, collaboration with others, and responsible decision-making;

(ii) To improve culture and climate in the school so that all students can feel that they are in a safe and supportive environment;

(iii) To develop conflict-resolution skills;

(iv) To prevent bullying that include without limitation:

(a) Training programs for school employees regarding how to recognize bullying behaviors;

(b) Protocols for responding to bullying that is occurring in the school;

(c) Strategies that support a student who is being bullied; and

(d) Strategies that help a bystander speak out against bullying; and

(v) To address age-appropriate suicide awareness and prevention through:

(a) Strategies that help identify a student who is at risk for suicide;

(b) Strategies and protocols that help a student who is at risk for suicide; and

(c) Protocols for responding to a suicide death; and

(G) Serving as a contributing member of decision-making teams, which include without limitation:

(i) Teams that are convened under Section 504 of the Rehabilitation Act of 1973, Pub. L. No. 93-112;

(ii) Response-to-intervention teams;

(iii) English language learner programs;

(iv) Parental involvement or family engagement programs;

(v) Positive behavioral intervention support programs; and

(vi) Advanced placement and gifted and talented programs.

(c)(1) Administrative activities performed by a school counselor shall not exceed more than ten percent (10%) of the school counselor's time spent working during student contact days.

(2) Administrative activities provided by a school counselor in collaboration with other school personnel include without limitation:

(A) Coordinating state assessments, cognitive achievement assessments, advanced placement programs, and language acquisition testing programs;

(B) Developing master schedules;

(C) Coordinating of:

- (i) Teams convened under Section 504 of the Rehabilitation Act of 1973, Pub. L. No. 93-112;
- (ii) Response-to-intervention teams;
- (iii) English language learner programs;
- (iv) Parental involvement or family engagement programs;
- (v) Positive behavioral intervention support programs;
- (vi) Data entry; and
- (vii) Advanced placement and gifted and talented programs; and
- (D) Monitoring students in common areas such as the cafeteria, hallway, playground, and bus lines.

History. Acts 2019, No. 190, § 4. tation Act of 1973, referred to in this
U.S. Code. Section 504 of the Rehabili- section, is codified as 29 U.S.C. § 794.

RESEARCH REFERENCES

ALR. Liability of Public or Private with Suicide of Student. 100 A.L.R.6th
Schools or Institutions of Higher Learn- 563 (2014).
ing, or Personnel Thereof, in Connection

6-18-2005. Monitoring and support.

- (a) Each public school district is responsible for posting its annual comprehensive school counseling plan on the district website under “State-Required Information”.
- (b)(1) Beginning with the 2020-2021 school year, the Division of Elementary and Secondary Education shall monitor each public school district to ensure implementation and compliance with this subchapter.
- (2) Failure by a public school district to comply with this subchapter is a violation of the Standards for Accreditation of Arkansas Public Schools and School Districts.
- (c) The division shall:
 - (1) Employ at least one (1) individual who is certified as a school counselor;
 - (2) Provide a multilevel system of support to public school districts to assist in complying with the requirements of this subchapter; and
 - (3) Provide guidance and technical assistance to public school districts in order to support equitable access to public school counseling services.

History. Acts 2019, No. 190, § 4.

SUBCHAPTER 21 — FARM TO SCHOOL AND EARLY CHILDHOOD EDUCATION PROGRAM

SECTION.	
6-18-2101. Legislative findings.	childhood education pro-
6-18-2102. Definition.	gram — Full-time coordi-
6-18-2103. Farm to school and early	nator position.

6-18-2101. Legislative findings.

The General Assembly finds that:

(1) Forty-seven (47) states have established farm to school programs to improve the health of children through the support of the following three (3) core elements:

(A) School gardens;

(B) Food, nutrition, and agriculture education; and

(C) Procurement of local farm or food products for school meals and snacks in public and private educational institutions, early childhood programs, juvenile detention centers, residential childcare institutions, and other childcare learning facilities;

(2) A successful farm to school and early childhood education program can increase a student's physical activity, participation in school meals, and preference for fresh fruits and vegetables;

(3) A successful farm to school and early childhood education program can improve a student's academic achievement and student behavior;

(4) Other states that have created a full-time farm to school and early childhood education program coordinator position have seen an increase in educational opportunities related to agriculture;

(5) States with a full-time farm to school and early childhood education program coordinator have seen an increase in the procurement of local farm or food products for schools, which encourages a student's consumption of local farm or food products;

(6) Increasing the procurement of local farm or food products for schools has the added benefit of supporting the state's agricultural economy by providing an additional revenue source for local farmers;

(7) Farm to school activities support a nutritious school food environment;

(8) Students who participate in farm to school activities are more likely to be familiar with, have a preference for, and consume more fruits and vegetables at both school and home;

(9) Establishing a strong farm to school and early childhood education program provides support to Healthy Active Arkansas;

(10) Establishing healthy behaviors at an early age may prevent the onset of chronic disease and other health conditions later in life;

(11) The leading causes of death in Arkansas are heart disease, cancer, and stroke, which are illnesses often associated with dietary behaviors; and

(12) Investing in the health of children will help them to achieve greater educational attainment and lead to stronger communities.

History. Acts 2019, No. 506, § 1.

6-18-2102. Definition.

As used in this subchapter, “local farm or food products” means food products that are grown in Arkansas or packaged and processed in Arkansas, or both.

History. Acts 2019, No. 506, § 1.

6-18-2103. Farm to school and early childhood education program — Full-time coordinator position.

(a) A farm to school and early childhood education program is established within the Department of Agriculture for the purposes of:

- (1) Improving student health;
- (2) Developing an educated agricultural workforce;
- (3) Enriching the local farm or food products system and supporting the state’s agricultural economy through the support and increase of procurement of local farm or food products for public schools;
- (4) Accelerating garden and farm-based education for students; and
- (5) Expanding the relationships between schools and agricultural communities.

(b)(1)(A) The Department of Agriculture shall establish a full-time farm to school and early childhood education program coordinator position.

(B) The farm to school and early childhood education program coordinator shall be the administrative head of the farm to school and early childhood education program.

(2) The farm to school and early childhood education program coordinator shall:

(A) Address the issues of supply, demand, procurement, and consumption of local farm or food products in schools and early childhood programs; and

(B) Take reasonable steps to incorporate more agriculture and nutrition education into schools and early childhood programs.

(c) The farm to school and early childhood education program coordinator shall implement a statewide farm to school and early childhood education program in collaboration with stakeholders, including without limitation:

(1) The Child Nutrition Unit of the Division of Elementary and Secondary Education;

(2) The Department of Human Services;

(3) The Division of Elementary and Secondary Education;

(4) The University of Arkansas Cooperative Extension Service;

(5) The Department of Health; and

(6) Healthy Active Arkansas.

(d) The farm to school and early childhood education program coordinator shall:

(1) Prepare an annual report, in collaboration with stakeholders, that details the program activities conducted in furtherance of the

following three (3) core elements of the farm to school and early childhood education program:

- (A) School gardens;
- (B) Food, nutrition, and agriculture education; and
- (C) Procurement of local farm or food products for school meals and snacks; and

(2) Submit the annual report to the House Committee on Agriculture, Forestry, and Economic Development and to the Senate Committee on Agriculture, Forestry, and Economic Development.

History. Acts 2019, No. 506, § 1.

A.C.R.C. Notes. Acts 2019, No. 506, § 2, provided: “On and after February 15, 2020, the farm to school and early child-

hood education program coordinator shall submit the annual report as required under § 6-18-2103(d).”

CHAPTER 19

TRANSPORTATION

- SECTION.
- 6-19-102. Authority to transport students — Vehicles and operators.
- 6-19-104. Bus drivers generally.
- 6-19-106. Bus drivers — Qualifications.
- 6-19-111. Bus rules — Design and operation.

- SECTION.
- 6-19-114. Purchase of buses.
- 6-19-116. Bus mirrors.
- 6-19-120. Operation of a school bus while using a cellular telephone — Definitions.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

6-19-102. Authority to transport students — Vehicles and operators.

- (a) The board of directors of each school district in the state is authorized to purchase vehicles and otherwise provide means for transporting pupils to and from school, when necessary.
- (b) To this end it may hire or purchase such school buses or other vehicles and hire persons to operate them, or make such other arrangements as it may deem best, affording safe and convenient transporta-

tion to the pupils, and the board of directors may pay for all such property or services out of the funds of the district.

(c) Any contract with any member of the school district board of directors for the transportation of children or to drive a bus shall be null and void.

(d) A bus or other vehicle used in transporting pupils in one (1) district shall not be used to transport pupils in another district without the consent of the Division of Elementary and Secondary Education, except as specifically allowed by law.

(e) The buses shall be of such specifications as may be prescribed by uniform rules of the Commission for Arkansas Public School Academic Facilities and Transportation.

History. Acts 1931, No. 169, § 102; Pope's Dig., § 11545; A.S.A. 1947, § 80-1801; Acts 1999, No. 1078, § 75; 2009, No. 1473, § 5; 2013, No. 420, § 1; 2019, No. 910, § 1583.

Amendments. The 2019 amendment substituted "Division of Elementary and Secondary Education" for "Department of Education" in (d).

6-19-104. Bus drivers generally.

Drivers or operators of school buses shall comply with all laws, rules, and regulations pertaining to school bus drivers or operators not in conflict with the provisions of § 6-19-101, § 6-19-103, § 6-19-105 [repealed], and § 6-19-106.

History. Acts 1943, No. 156, § 1; 1945, No. 31, § 1; 1947, No. 420, § 1; A.S.A. 1947, § 80-1810; Acts 2019, No. 315, § 267.

Amendments. The 2019 amendment inserted "rules".

6-19-106. Bus drivers — Qualifications.

A person who has been convicted within the past three (3) years of operating a motor vehicle in a reckless manner or who is less than nineteen (19) years of age on June 30 following his or her last birthday shall not be permitted or employed to operate any school bus, either privately or publicly owned, operated by public school districts and used to transport pupils to and from the public schools in the State of Arkansas.

History. Acts 1943, No. 156, § 1; 1945, No. 31, § 1; 1947, No. 420, § 1; 1985, No. 757, § 1; A.S.A. 1947, § 80-1810; Acts 1989, No. 794, § 1; 1999, No. 391, § 15; 2019, No. 757, § 41.

Amendments. The 2019 amendment rewrote (a) and removed the (a) designation; and deleted (b).

6-19-111. Bus rules — Design and operation.

(a) The Commission for Arkansas Public School Academic Facilities and Transportation shall adopt and enforce rules to govern the design and operation of all school buses used for the transportation of school

children when the buses are owned and operated by a school district or privately owned and operated under contract with a school district in this state.

(b) Such rules shall by reference be made a part of any contract with a school district.

(c) Every school district, its officers and employees, and every person employed under contract by a school district shall be subject to the rules.

(d) Any officer or employee of any school district who violates any of the rules or fails to include an obligation to comply with the rules in any contract executed by him or her on behalf of a school district shall be guilty of misconduct and subject to removal from office or employment.

(e) Any person operating a school bus under contract with a school district who fails to comply with any such rules shall be guilty of breach of contract, and the contract shall be cancelled after notice by the responsible officers of the school district.

History. Acts 1937, No. 300, § 102; Pope's Dig., § 6759; A.S.A. 1947, § 80-1809; Acts 2013, No. 420, § 3; 2019, No. 315, § 268.

Amendments. The 2019 amendment substituted "rules" for "regulations" in the section heading and throughout the section.

6-19-114. Purchase of buses.

(a) School buses purchased with loans from the Revolving Loan Fund must meet the prescribed minimum standards, laws, rules, and regulations for school buses and must be owned and operated by the district purchasing them.

(b)(1) Except as provided under § 6-21-306(b), the purchase of school buses with loans from the fund shall be made upon competitive bids.

(2) Forms for bids shall be approved by the State Board of Education.

(3) The district shall advertise for bids by publication of notice in a newspaper having bona fide circulation in the county where the district is located, one (1) time a week for two (2) weeks, giving the date and place of opening bids.

(4) The first publication of notice shall be not less than thirty (30) days from the date set for opening bids and awarding of contracts.

(c)(1) Any school district which shall desire that the state board purchase buses for that school district, instead of making the purchase as provided in this section, may apply to the state board to make the purchase for it.

(2) If the state board shall receive within a sixty-day period application for the purchase of ten (10) or more buses from one (1) or more districts, the purchase shall, collectively, be made by the state board as is provided in this section for advertising for and accepting bids by a school district, except that the advertisement for bids shall be in some newspaper having a statewide circulation.

History. Acts 1943, No. 176, §§ 5-7; 2015, No. 846, § 9; Acts 2019, No. 315, A.S.A. 1947, §§ 80-1806 — 80-1808; Acts § 269.

Amendments. The 2019 amendment inserted “laws, rules” in (a).

6-19-116. Bus mirrors.

(a) Every school bus used for the transportation of pupils to or from school shall be equipped with one (1) or more mirrors of sufficient size so positioned on the bus as to permit the driver to see clearly the area immediately in front of the bus.

(b) The Division of Public School Academic Facilities and Transportation is authorized to adopt appropriate rules as it deems necessary to carry out the intent and purposes of this section.

History. Acts 1979, No. 646, §§ 1, 2; A.S.A. 1947, §§ 80-1809.1, 80-1809.2; Acts 2005, No. 1327, § 6; 2019, No. 315, § 270. **Amendments.** The 2019 amendment deleted “and regulations” following “rules” in (b).

6-19-120. Operation of a school bus while using a cellular telephone — Definitions.

(a) As used in this section:

(1) “Cellular telephone” means a wireless two-way communication device that requires the operator to dial numbers manually and that:

(A) Includes radio-telephone communications used in cellular telephone service, personal communication service, or the functional equivalent of a radio-telephone communications line used in cellular telephone service or a personal communication service; and

(B) Does not include a citizens band radio, a citizens band radio hybrid, or any device with push-to-talk capabilities used in a similar manner as a citizens band radio or a citizens band radio hybrid; and

(2) “School bus” means every motor vehicle owned by a public school district or operated under contract for a public school district and used for the transportation of children to or from school or school-sponsored activities.

(b) Except as provided in subsection (c) of this section, a person shall not operate a school bus while using a cellular telephone.

(c) This section does not apply to the use of a cellular telephone:

(1) For the purpose of communicating with any of the following regarding an emergency situation:

(A) An emergency system response operator or 911 public safety communications dispatcher;

(B) A hospital or emergency room;

(C) A physician’s office or health clinic;

(D) An ambulance or fire department rescue service;

(E) A fire department, fire protection district, or volunteer fire department; or

(F) A police department;

(2) To call for assistance if there is a mechanical breakdown or other mechanical problem impairing the operation of the bus; or

- (3) When the school bus is parked.
- (d) A person who violates this section is guilty of a violation and may be fined not less than one hundred dollars (\$100) nor more than two hundred fifty dollars (\$250).
- (e) Except as otherwise provided under law, a person operating a school bus may use a two-way radio communications device or any device used in a similar manner as a two-way radio communications device as a means of communicating with:
 - (1) Central dispatch; or
 - (2) The school transportation or its equivalent.

History. Acts 2003, No. 219, § 1; 2019, No. 577, §§ 1, 2. capabilities used in a similar manner as a citizens band radio or a citizens band radio hybrid” in (a)(1)(B); and added (e).

Amendments. The 2019 amendment added “or any device with push-to-talk

CHAPTER 20
FINANCES

SUBCHAPTER.

- 1. GENERAL PROVISIONS.
- 2. MANAGEMENT AND APPORTIONMENT OF FUNDS GENERALLY.
- 4. DISTRICT FINANCES.
- 5. FUNDS FOR CHILDREN WITH DISABILITIES AND FOSTER CHILDREN.
- 6. LOCAL SCHOOL DISTRICT ISOLATED FUNDING.
- 7. SCHOOL LUNCH PROGRAM.
- 8. REVOLVING LOAN PROGRAM — GENERAL PROVISIONS.
- 12. DISTRICT BONDS.
- 14. STATE AID FOR CONSTRUCTION.
- 15. PUBLIC ELEMENTARY AND SECONDARY SCHOOL INSURANCE ACT.
- 18. AUDITS.
- 19. ARKANSAS FISCAL ASSESSMENT AND ACCOUNTABILITY PROGRAM.
- 20. TRACKING AND ACCOUNTING OF INTERSCHOOL ATHLETIC PROGRAM FUNDS.
- 21. TRACKING AND ACCOUNTING OF INTERSCHOOL SCHOLASTIC ACTIVITY FUNDS.
- 22. ARKANSAS EDUCATIONAL FINANCIAL ACCOUNTING AND REPORTING ACT OF 2004.
- 23. PUBLIC SCHOOL FUNDING ACT OF 2003.
- 25. ARKANSAS PUBLIC SCHOOL ACADEMIC FACILITIES FUNDING ACT.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

6-20-104. Reimbursement for educational services provided in juvenile detention facilities — Definition.

SECTION.

6-20-106. [Repealed.]
6-20-107. Educational cost reimbursement prohibition — Definition.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two

uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of

the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019".

6-20-104. Reimbursement for educational services provided in juvenile detention facilities — Definition.

(a)(1) As used in this section, "juvenile detention facility" means any facility operated by a political subdivision of the state for the temporary care of juveniles alleged to be delinquent, or adjudicated delinquent, who require secure custody in a physically restricting facility.

(2) Under § 9-27-330(a)(11), such juvenile detention facility must provide educational and other rehabilitative services to adjudicated delinquents who may be ordered by the court to remain in the juvenile detention facility for an indeterminate period not to exceed ninety (90) days.

(b)(1) Upon disposition by the juvenile court that an adjudicated juvenile shall stay in a juvenile detention facility for any period of time, the facility shall notify the juvenile's resident school district of his or her whereabouts and within five (5) days after the juvenile is released shall certify the detention dates to the district.

(2) The school district where the facility is located and the juvenile detention facility shall jointly complete an application for funding to be based on the approved student capacity of the facility and shall submit the application to the Division of Elementary and Secondary Education.

(3) If the amount of state funds due cannot be agreed upon by the juvenile detention facility and the school district where the facility is located, an appeal shall be made to the division. All decisions rendered shall be final.

(c) The division shall issue rules for the effective implementation of this section, including:

(1) The classification of juvenile detention centers as approved residential treatment facilities;

(2) The designation of the juvenile detention facility and the district where the juvenile detention facility is located as responsible for educating the student consistent with federal and state laws for any period of time the student is being held in the facility; and

(3) The designation of the resident district of a student who is being held in a juvenile detention facility as responsible for the timely transfer of a student's educational records to the district where the juvenile detention facility is located upon notification by the court of the student's placement in a juvenile detention facility.

History. Acts 1995, No. 667, §§ 1-4; 1999, No. 1318, § 2; 2019, No. 315, § 271.

Amendments. The 2019 amendment

substituted “rules” for “regulations” in the introductory language of (c).

6-20-106. [Repealed.]

A.C.R.C. Notes. The repeal of this section by Acts 2019, No. 757, § 42, superseded the amendment of this section by Acts 2019, No. 315, § 272, and Acts 2019, No. 910, § 1584. The amendment by Acts 2019, No. 315 deleted “and regulations” following “rules” throughout the section, and the amendment by Acts 2019, No. 910 substituted “Division of Elementary and

Secondary Education” for “Department of Education”.

Publisher’s Notes. This section, concerning Amendment 74 rules and regulations, was repealed by Acts 2019, No. 757, § 42, effective July 24, 2019. The section was derived from Acts 1999, No. 1429, § 28; 2019, No. 315, § 272; 2019, No. 910, § 1584.

6-20-107. Educational cost reimbursement prohibition — Definition.

(a) As used in this section, “juvenile” means a person who is eighteen (18) years of age or younger.

(b)(1) The Division of Elementary and Secondary Education, a public school district, or an open-enrollment public charter school shall not be liable for any educational costs or other related costs associated with the placement of a juvenile in an out-of-state residential or inpatient facility for any care and treatment, including psychiatric treatment, unless:

(A) At the time of placement, the juvenile’s physician determines that the out-of-state placement is medically necessary and is the most appropriate placement available;

(B) The division authorizes public payment for educational costs based on a determination that the educational program and facilities are appropriate for the juvenile and the division has approved the facility’s educational program;

(C)(i) Each educational program authorization precedes the placement.

(ii) If the educational program is not authorized before placement, the division, public school districts, or open-enrollment public charter schools shall not be responsible for educational or other related costs, nor shall they be subject to any order to pay for educational or other related costs; and

(D) The out-of-state residential or inpatient facility is located within a state that borders Arkansas.

(2) Payment under this subsection shall be:

(A) Limited to twenty (20) students at any one (1) time during a calendar year unless:

(i) The juvenile under subdivision (b)(1) of this section qualifies as disabled under the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq.; and

(ii) Payment is required under the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq.; and

(B) Subject to the availability of division funding.

(c) The division, a public school district, or an open-enrollment public charter school shall not be liable for any educational costs or other related costs associated with the placement of a juvenile in an in-state residential or inpatient facility for any care and treatment, including psychiatric treatment, unless:

(1) The division authorizes public payment for educational costs based on a determination that the educational program and facilities are appropriate for the juvenile and the division has approved the facility's educational program; and

(2)(A) Each educational program authorization precedes the placement.

(B) If the educational program is not authorized before the placement, the division, public school districts, or open-enrollment public charter schools shall not be responsible for education or other related costs, nor shall they be subject to any order to pay for educational or other related costs.

(d) The liability of the division, a public school district, or an open-enrollment public charter school for the educational costs or other related costs described in subsections (b) and (c) of this section shall be limited to the lesser of:

(1) The reimbursement rate established by the division for a juvenile placed in a residential or inpatient facility; or

(2) The normal and customary educational cost reimbursement rate of the state in which a juvenile is placed in an out-of-state residential or inpatient facility as determined by the division.

(e) This section shall not apply to a juvenile placed in an Arkansas juvenile detention facility as defined in § 6-20-104.

(f) Nothing in this section shall be construed to require payment by the division, a public school district, or an open-enrollment public charter school for educational costs and other related costs associated with the placement of a juvenile in an out-of-state residential or inpatient facility for any care or treatment, including psychiatric treatment, before April 7, 2005.

History. Acts 2005, No. 1763, § 1; 2019, No. 523, § 2; 2019, No. 910, §§ 1585-1588.

A.C.R.C. Notes. Acts 2019, No. 523, § 1, provided: "Legislative Findings. The General Assembly finds that:

"(1) Under Arkansas Code § 6-20-107, students who live and attend school in Arkansas are entitled to an education during a stay for care and treatment in a residential or inpatient facility;

"(2) For many students and their families, placement in an out-of-state residential or inpatient facility is appropriate and promotes family participation in the student's care and treatment because the

out-of-state facility is closer to the student's home than the nearest in-state facility;

"(3) The General Assembly has historically recognized that many individuals and institutions in Arkansas routinely do business with individuals and institutions in bordering states and has enacted laws that ensure consistency of interaction with in-state and out-of-state individuals, institutions, and services such as airport services, the controlling of illegal drug trafficking, the depositing of Arkansas local school district funds, intergovernmental cooperation agreements, Medicaid reimbursement, municipal water and sewer

operations, taxation, and the venue for adoption proceedings;

“(4) Arkansas students and their families should have the ability to seek care and treatment at the closest and most appropriate residential or inpatient facility; and

“(5) Arkansas should cover the educational costs of a student in an out-of-state residential or inpatient facility, subject to physician certification that the placement is medically necessary and the most ap-

propriate placement available, in the same manner that the state covers the educational costs of a student in an in-state residential or inpatient facility.”

Amendments. The 2019 amendment by No. 523 rewrote (b).

The 2019 amendment by No. 910 substituted “Division of Elementary and Secondary Education” for “Department of Education” in (b) [now (b)(1)]; and substituted “division” for “department” throughout the section.

SUBCHAPTER 2 — MANAGEMENT AND APPORTIONMENT OF FUNDS GENERALLY

SECTION.

6-20-210. [Repealed.]

6-20-212. [Repealed.]

SECTION.

6-20-223. Noncredit remedial courses.

6-20-224. Federal turnback funds.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

6-20-210. [Repealed.]

A.C.R.C. Notes. The repeal of this section by Acts 2019, No. 757, § 43, superseded the amendment of this section by Acts 2019, No. 910, § 1589. The amendment by Acts 2019, No. 910 substituted “Division of Elementary and Secondary Education” for “Department of Education” and “division” for “department” throughout the section.

Publisher’s Notes. This section, concerning Pulaski County desegregation,

was repealed by Acts 2019, No. 757, § 43, effective July 24, 2019. The section was derived from Acts 2003 (1st Ex. Sess.), No. 51, § 9; 2003 (2nd Ex. Sess.), No. 98, § 7; 2019, No. 910, § 1589.

Former § 6-20-210, concerning estimates of available moneys and lists of school closing dates, was repealed by Acts 1993, No. 294, § 13. The section was derived from Acts 1943, No. 179, § 2; A.S.A. 1947, § 80-718.

6-20-212. [Repealed.]

A.C.R.C. Notes. The repeal of this section by Acts 2019, No. 757, § 44, superseded the amendment of this section by Acts 2019, No. 910, § 1590. The amend-

ment by Acts 2019, No. 910 substituted “Division of Elementary and Secondary Education” for “Department of Education”, substituted “division” for “depart-

ment”, and deleted an obsolete provision.

Publisher’s Notes. This section, concerning desegregation expenses, was repealed by Acts 2019, No. 757, § 44, effective July 24, 2019. The section was derived from Acts 2005, No. 2131, § 12; 2019, No. 910, § 1590.

Former § 6-20-212, concerning advance apportionments, was repealed by Acts 1993, No. 294, § 13. The section was derived from Acts 1943, No. 179, §§ 3, 4; 1953, No. 384, § 17; A.S.A. 1947, §§ 80-719, 80-720.

6-20-223. Noncredit remedial courses.

(a) Noncredit remedial courses of instruction taken by a student at a state-supported institution of higher education in this state to qualify for unconditional admission to the institution or to another state-supported institution of higher education in this state may be included within the meaning of public school purposes.

(b) Nothing in this section shall be interpreted as authorizing a state-supported institution to receive direct payments from the Division of Elementary and Secondary Education or from a school district for noncredit remedial courses taken by a student.

History. Acts 1999, No. 375, § 1; 2019, No. 910, § 1591.

substituted “Division of Elementary and Secondary Education” for “Department of Education” in (b).

Amendments. The 2019 amendment

6-20-224. Federal turnback funds.

Any federal mineral leasing funds, federal forest reserve funds, federal flood control funds, or any similar turnback funds in the State Treasury for which the eligible county or school district cannot be identified may be transferred to the Division of Elementary and Secondary Education Public School Fund Account and used for any lawful school purpose.

History. Acts 1999, No. 1429, § 25; 2019, No. 910, § 1592.

substituted “Division of Elementary and Secondary Education” for “Department of Education”.

Amendments. The 2019 amendment

SUBCHAPTER 4 — DISTRICT FINANCES

SECTION.

6-20-402. Limitation on current indebtedness — Postdated warrants and installment contracts — Liability.

SECTION.

6-20-405. Energy savings contract — Definitions.
6-20-415. Consultants.
6-20-416. Desegregation funding.

Effective Dates. Acts 2019, No. 910, § 6346(b); July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that

these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Effi-

ciencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is

declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019".

6-20-402. Limitation on current indebtedness — Postdated warrants and installment contracts — Liability.

(a)(1)(A) The amount of obligations incurred by a school district for any school fiscal year shall not be in excess of the revenue receipts of the district for that year except as provided in this section and in § 6-20-801 et seq.

(B) A school district or public charter school may enter into public-private partnerships whereby the school district or public charter school enters into a lease-purchase agreement for the acquisition or construction of a school building or related facilities built or acquired by the private entities with facilities bonds exempt from federal taxes under 26 U.S.C. § 142(a)(13), as it existed on January 1, 2003, or otherwise exempt under 26 U.S.C. § 103, as it existed on January 1, 2005.

(2) A school district may issue postdated warrants or enter into installment contracts or short-term lease-purchase agreements for the following purposes:

- (A) Purchase of school buses;
- (B) Payment of premiums of insurance policies on school buildings, facilities, and equipment in instances in which the insurance coverage extends three (3) years or longer;
- (C)(i) Purchase of equipment.
- (ii) However, purchase of equipment does not include separate equipment service agreements, equipment repair contracts, or extended warranties for the equipment;
- (D) Installation or purchase, or both, of energy conservation measures in school facilities;
- (E) Construction, repair, and renovation of school facilities;
- (F) Purchase of school sites;
- (G) Payment on loans secured for settlement resulting from litigation against a school district;
- (H) Payment of the district's pro rata part of employing professional appraisers as authorized by laws providing for the appraisal or reappraisal and assessment of property for ad valorem tax purposes; and

(I) The professional development and training of teachers or other programs authorized under the federally recognized qualified zone academy bond program codified at 26 U.S.C. § 1397E [repealed].

(3) School districts may issue postdated warrants or enter into installment contracts or lease-purchase agreements in an amount sufficient to accomplish the purposes listed in subdivision (a)(2) of this

section and to pay the costs of issuing the postdated warrants or entering into the installment contracts or lease-purchase agreements.

(b)(1)(A) Except as provided in subdivisions (b)(1)(B) and (C) of this section, a postdated warrant, a short-term lease-purchase agreement, or an installment contract must be paid within ten (10) years of the date of issuance of the postdated warrant or the execution of the written lease-purchase agreement or installment contract, as the case may be.

(B)(i) A school district's acquisition of energy conservation measures under § 6-20-405 may be financed by the school district over a twenty-year period after the execution by the school district of the postdated warrant, lease-purchase agreement, or installment contract.

(ii) However, no financing shall exceed the reasonably expected useful life of the energy facilities or equipment subject to the energy savings contract in favor of either a qualified provider or a third-party financing company designated by a qualified provider.

(C) A long-term lease-purchase agreement allowed under subdivision (a)(1)(B) of this section:

(i) Shall be paid within thirty (30) years of the date of the execution of the written lease-purchase agreement; and

(ii)(a) May contain a provision allowing the school district an option to terminate the agreement at the end of any fiscal year for the school district.

(b)(1) Any long-term lease containing an option to terminate at the end of a fiscal year shall not be included in the calculation of the debt ratio applicable to that school district.

(2) Any long-term lease allowed under subdivision (a)(1)(B) of this section that does not contain an option to terminate at the end of the fiscal year shall be included in the calculation of the debt ratio applicable to that school district.

(iii) All school buildings or related facilities shall comply with the requirements of the Arkansas School Facilities Manual in effect at the time the lease became effective.

(D)(i) A school district may sublease a portion of a school building or facility whenever that building or facility is not being used for educational purposes.

(ii) Rent received from a sublease:

(a) Shall be deposited into the school district's general fund; and

(b) May be used for any operational or capital purpose.

(E) Postdated warrants, lease-purchase agreements, and installment contracts must be registered on forms provided or approved by the State Board of Education with the treasurer of the district and the state board.

(2)(A) A lease-purchase agreement, postdated warrant, and installment contract must have attached thereto a schedule of the rent or installments to be paid, showing:

(i) The payee and any assignee;

- (ii) The school district;
- (iii) The purpose of the purchase or payment;
- (iv) The due date of each installment; and
- (v) The amount of principal and interest of each installment and the fiscal year in which the installment is to be paid.

(B) A copy of each contract and of the schedule of payments shall be filed with the treasurer of the district and with the state board, and when so filed, each installment may be paid as it becomes due.

(3)(A) Except as provided in subdivision (b)(3)(B) of this section, the unpaid principal amount of postdated warrants issued and installment contracts and lease-purchase agreements entered into shall be a part of the total debt of the district as limited by § 6-20-803 with the district fiscal officer and his or her surety liable for exceeding the limitations.

(B) The unpaid principal amount of postdated warrants, lease-purchase agreements, or installment contracts entered into in connection with a guaranteed energy savings contract under § 6-20-405 shall not be a part of the total debt of the district.

(4) A copy of any guaranteed energy savings contract that is executed in connection with the acquisition, installation, or construction of energy conservation measures under this section shall be filed with the Division of Elementary and Secondary Education.

(5) Payments by a school district pursuant to postdated warrants, installment contracts, and lease-purchase agreements shall be charged against the budget of the school fiscal year in which they become due and shall be paid out of the revenue receipts for that fiscal year.

(6) All warrants issued or installment contracts and lease-purchase agreements entered into in excess of the revenue of a school district for a school fiscal year are null and void except as provided in this section.

(7)(A) It shall be the duty of the school fiscal officer to indicate on each school district warrant or on the schedule of payments attached to a written installment contract or lease-purchase agreement the school year's revenues against which the obligation was incurred and is to be paid.

(B) It shall be unlawful for the school fiscal officer to issue a school district warrant or to enter into an installment contract or lease-purchase agreement the installments for which are to be charged against the revenues of a school year if the obligation thereof was incurred in a different school year except as otherwise authorized in this section.

(8) The school fiscal officer may comply with the provisions of this section by indicating on each warrant or schedule of payments attached to any installment contract or lease-purchase agreement the school year's revenues against which each payment is to be charged, or he or she may use a warrant of a distinct color for a particular year and shall advise the county treasurer, if the county treasurer serves as the school district treasurer, in writing of the color of warrant being used for credit against the revenues of a particular year.

(9) The county treasurer, or the district treasurer if the school district has its own treasurer, and his or her surety shall be jointly liable with the school fiscal officer and his or her surety for the payment of any school warrant or payment on a contract or agreement that is charged against the revenues of a school year if the amount thereof is in excess of the revenue receipts of the district for the school year against which the school fiscal officer has indicated the payment is to be charged or if he or she approved the payment with knowledge that the payment is being charged by the school fiscal officer against the revenues of another school year in violation of this section.

(10) It is the purpose and intent of this section to place primary responsibility on the school fiscal officer and his or her surety for compliance with the provisions of this section and to make the county treasurer, or district treasurer if the school district has its own treasurer, and his or her surety liable for any payment on a warrant, contract, or agreement drawn in violation of this section when the amount of the payment exceeds the revenue receipts of the district for the school year against which it is charged as indicated on the warrant, contract, or agreement or when the county treasurer approves a payment with the knowledge that it is in payment of an obligation of a different school year as prohibited in this section.

(c)(1) A school district may refinance one (1) or more outstanding postdated warrants, lease-purchase agreements, or installment contracts and pay the usual, customary, and reasonable costs of the refinancing by issuing one (1) postdated warrant, lease-purchase agreement, or installment contract if the refinancing:

(A)(i) Results in a net savings to the school district.

(ii) A net savings results if the outstanding principal balance plus the remaining interest payments and any early call penalties are greater than the new principal balance plus the total interest to be paid and the cost of the refinancing of the outstanding postdated warrant, lease-purchase agreement, or installment contract;

(B) Does not extend the term of the postdated warrant, lease-purchase agreement, or installment contract more than five (5) years beyond the term of the existing individual outstanding postdated warrants, lease-purchase agreements, or installment contracts, and if the original term together with any extension does not exceed ten (10) years;

(C) Does not increase the outstanding debt owed by the school district under the existing outstanding postdated warrants, lease-purchase agreements, or installment contracts except to the extent necessary to cover usual, customary, and reasonable costs of issuance of the new refunding postdated warrant, lease-purchase agreement, or installment contract and except to the extent necessary for new financing as authorized by subsection (a) of this section;

(D)(i) Except as allowed under subdivision (c)(1)(D)(ii) of this section, the outstanding postdated warrants, lease-purchase agreements, or installment contracts have not been previously refinanced.

(ii) Any outstanding postdated warrants, lease-purchase agreements, or installment contracts may be refinanced more than one (1) time if:

- (a) The school district realizes a savings from the refinancing;
- (b) The term of the debt obligation is not extended; and
- (c) The refinancing does not increase the total debt obligation of the school district; and

(E) The school district obtains the prior written approval of the division to refinance one (1) or more outstanding postdated warrants, lease-purchase agreements, or installment contracts.

(2) The state board may promulgate rules as necessary to implement subdivision (c)(1) of this section.

(d)(1) A school district may incur current indebtedness and issue its notes or other evidence thereof as provided in this subsection.

(2) All current indebtedness incurred in a fiscal year shall mature on or before December 31 of the calendar year in which the fiscal year ends.

(3) Current indebtedness is not included in the term "bonded indebtedness" and shall not be considered a part of the total debt of a district as limited by § 6-20-803.

(4) Current indebtedness shall be payable from and may be secured by a pledge of all or any part of the revenue receipts of the issuing district for the fiscal year in which the debt is incurred.

(5) The amount of obligations incurred by a school district for any school fiscal year, including current indebtedness, shall not be in excess of the revenue receipts of the district for that year except as expressly authorized in subsection (a) of this section.

(6) Upon incurring current indebtedness, the school district shall notify the division of the indebtedness, on forms provided by the division, showing the:

- (A) Payee and any assignee;
- (B) School district;
- (C) Purpose of the indebtedness;
- (D) Maturity date of the indebtedness;
- (E) Amount borrowed and interest rate of indebtedness; and
- (F) Amortization schedule showing installments, if applicable.

(e)(1)(A)(i) Except as provided in subdivision (e)(1)(B) of this section, as additional security for the payment of any postdated warrant, installment contract, lease-purchase agreement, or current indebtedness of a school district authorized under subdivision (a)(2) of this section, the district may authorize the state board to cure any delinquencies of the school district by withholding state foundation funding due the district.

(ii) Authorization shall be given by the school district at the time that the postdated warrant, installment contract, or lease-purchase agreement is issued or the current indebtedness authorized under subdivision (a)(2) of this section is incurred and shall be given in the manner and in the form that the state board shall prescribe.

(B) A school district may not authorize the state board to cure and the state board shall not cure any delinquencies of the district in contracts or extended warranties on equipment by withholding state foundation funding due the district.

(2)(A) If a school district has authorized withholding of its state foundation funding under subdivision (e)(1)(A) of this section and the school district has failed to pay the payee or paying agent amounts due under a postdated warrant, installment contract, or lease-purchase agreement described in subdivision (a)(2) of this section, the payee or paying agent shall be entitled to payment from the school district's withheld state foundation funding if the payee or paying agent:

(i) Obtains a final judgment establishing the payee's or paying agent's right to payment from the school district under a postdated warrant, installment contract, or lease-purchase agreement described in subdivision (a)(2) of this section; and

(ii) Submits a written request for payment of the amount of the unpaid judgment and a certified copy of the final judgment to the Commissioner of Elementary and Secondary Education and the superintendent of the school district.

(B)(i) Except as provided in subdivision (e)(1)(B) of this section, unless the superintendent of the school district certifies in writing to the commissioner that payment has been made by the district to the payee or the paying agent and the judgment has been paid in full, the commissioner shall withhold from the next distribution to the school district of state foundation funding and remit to the payee or paying agent an amount sufficient to pay the judgment amount.

(ii) If the amount withheld under subdivision (e)(2)(B)(i) of this section is insufficient to pay the judgment in full, the commissioner shall continue withholding subsequent distributions of state foundation funding to the school district until the superintendent certifies to the commissioner that the judgment is paid in full.

(3) In the event that the amount next due to be distributed to the delinquent district is not sufficient to cure the delinquency, the commissioner shall continue to withhold state aid as due and remit it to the payee or paying agent until the payment deficiency has been cured.

(4) If the commissioner is notified that a district is delinquent on two (2) or more obligations for which a district has authorized withholding of state aid to cure a delinquency, the commissioner shall make payment to payees or paying agents in the order of receipt of notices of the delinquencies.

(f) If the state board withholds state aid from a school district under subsection (e) of this section, the school district shall be identified by the division to be a school district in fiscal distress under § 6-20-1906.

(g) Any duties required of any officer of the state pursuant to subsection (e) of this section shall be only ministerial in nature and shall in no way transfer any liability of the debtor to the state or any agency or any officer thereof.

(h) The rate of interest on postdated warrants, installment contracts, lease-purchase agreements, and current indebtedness shall not exceed the maximum interest rate for school bonds as determined under § 6-20-1206.

History. Acts 1939, No. 194, § 3; 1949, No. 150, § 2; 1969, No. 76, § 1; 1977, No. 494, § 1; 1981, No. 550, § 1; 1983, No. 438, § 1; 1985, No. 223, § 1; A.S.A. 1947, § 80-1003; Acts 1989, No. 105, §§ 2, 3; 1991, No. 401, § 15; 1993, No. 314, § 2; 1995, No. 233, § 11; 1997, No. 962, §§ 2, 3; 1997, No. 1265, § 1; 1997, No. 1329, § 2; 2001, No. 1220, §§ 8-10; 2003, No. 840, § 1; 2003, No. 1754, §§ 1, 2; 2003 (2nd Ex. Sess.), No. 58, §§ 1, 2; 2005, No. 1866, § 1; 2005, No. 2005, § 1; 2005, No. 2121, §§ 12, 23; 2005, No. 2156, § 2; 2005, No. 2177, § 1; 2006 (1st Ex. Sess.), No. 22, §§ 1-3; 2006 (1st Ex. Sess.), No. 23, §§ 1-3; 2007, No. 827, §§ 114, 115;

2009, No. 1469, § 9; 2013, No. 1073, § 32; 2015, No. 846, § 10; 2017, No. 741, § 4; 2019, No. 315, § 273; 2019, No. 910, §§ 1593-1597.

Amendments. The 2019 amendment by No. 315 deleted “and regulations” following “rules” in (c)(2).

The 2019 amendment by No. 910 substituted “Division of Elementary and Secondary Education” for “Department of Education” in (b)(4); substituted “division” for “department” in (c)(1)(E), twice in the introductory language of (d)(6), and in (f); and substituted “Commissioner of Elementary and Secondary Education” for “Commissioner of Education” in (e)(2)(A)(ii).

6-20-405. Energy savings contract — Definitions.

(a) As used in this section:

(1)(A) “Energy savings contract” means a contract for the implementation of one (1) or more energy conservation measures as defined in § 6-20-401 and shall include an investment grade preinstallation energy audit and analysis.

(B) The contract may provide that all payments except obligations on termination of the contract before its expiration are to be made over time and that the energy cost savings are guaranteed by the qualified provider to the extent necessary to pay all of the costs of the energy conservation measures, including all costs of financing and annual services that may include the measurement and verification of the guaranteed savings.

(C) The energy conservation measures to be performed under the contract may be paid for with any combination of revenue or nonrevenue receipts of a school district or, alternatively, financed by the issuance of postdated warrants or entering into installment contracts, or lease-purchase agreements.

(D) Obligations incurred pursuant to a guaranteed energy savings contract are not included in computing a school district’s debt ratio.

(E) If an energy savings contract is to be executed concurrently with one (1) or more conventional construction contracts for a common structure, the energy savings contract shall be separate and distinct from the other contract;

(2)(A) “Qualified provider” means the same as defined in § 19-11-1202.

(B) A qualified provider to whom the contract is awarded:

(i) Shall be required to provide a payment and performance bond to the school district for its faithful performance of the equipment installation; and

(ii) May be required to provide a letter of credit, surety bond, escrowed funds, or a corporate guarantee from a company with an investment grade credit rating in an amount necessary to ensure the effective performance of the contract; and

(3)(A) "Request for qualifications" means a negotiated procurement.

(B)(i) Notice of the request for qualifications shall be published one (1) time each week for no less than two (2) consecutive weeks in a newspaper of statewide circulation.

(ii) Responses shall be sealed and opened in a public forum at a date within thirty (30) days from the last publication, at which point the school district shall evaluate the qualifications.

(b) The school district may select the qualified provider or providers best qualified and capable of performing the desired work and negotiate an energy savings contract for the project.

(c)(1) A school district may enter into a guaranteed energy savings contract with a qualified provider if it finds that the amount it would spend on the energy conservation measures detailed in the contract would not exceed the amount to be saved in any combination of energy costs or operational costs or future capital expenditures avoided within a twenty-year period from the date of installation if the recommendations in the proposal are followed.

(2) The qualified provider's proposal shall include:

(A) The estimates of all costs of installation, modifications, or remodeling, including without limitation costs of an investment grade preinstallation energy audit and analysis, design, engineering, installation, commissioning, maintenance, repairs, debt service, post-installation project monitoring, savings measurement and verification, and data collection and reporting, as well as whether energy consumed or the operating costs, or both, will be reduced;

(B) The qualifications of the provider;

(C) The amount and specific sources of operational savings and capital cost avoidance that the school district acknowledges will occur without future measurement and verification;

(D) A statement from an Arkansas-licensed professional engineer that he or she was a member of the qualified provider's project team that completed a comprehensive energy audit and analysis of the school district's facilities; and

(E) The reasonably expected useful life of each recommended energy conservation measure.

(3)(A) Except as provided in subdivision (c)(3)(C) of this section, before entering into any energy savings contract, the contract shall be reviewed by an engineer who is:

(i) Licensed in the State of Arkansas; and

(ii) Designated by the division as qualified to review energy savings contracts.

(B)(i) The engineer conducting the contract review shall report to the school district any comments or issues that he or she believes merit consideration by the district before the district executes the energy savings contract.

(ii) The engineer shall bear no liability for any estimation of energy savings generated as part of a contract review under this subdivision (c)(3).

(C) Third-party review as provided in this subdivision (c)(3) shall not be required if the qualified provider demonstrates that the provider is a current member in good standing of the Energy Service Company or Energy Service Provider category of the National Association of Energy Service Companies.

(d)(1) The qualified provider shall provide to the school district an annual reconciliation report of the guaranteed energy-use savings.

(2) The qualified provider shall reimburse the school district for any annual shortfall of guaranteed energy-use savings as stated in the contract.

(e) This section shall constitute the sole authority necessary to accomplish the purposes of this section without regard to compliance with other laws that specify procedural requirements for execution of contracts.

(f) A school district may provide by resolution that the school district shall comply with the rules promulgated by the Arkansas Pollution Control and Ecology Commission under the Guaranteed Energy Cost Savings Act, § 19-11-1201 et seq.

History. Acts 1997, No. 962, § 4; 2001, No. 1717, § 1; 2003 (2nd Ex. Sess.), No. 58, § 3; 2005, No. 2156, § 3; 2007, No. 659, § 1; 2019, No. 507, §§ 1, 2.

Amendments. The 2019 amendment rewrote (a)(2)(A); and added (f).

6-20-415. Consultants.

(a) The Division of Elementary and Secondary Education in consultation with the Attorney General shall hire consultants on the following basis:

(1) The consultants shall be qualified as experts in public school district desegregation;

(2) The purposes for employing the consultants are to determine whether and in what respects any of the three (3) Pulaski County school districts:

(A)(i) Are unitary.

(ii) If a school district has been declared unitary or has been declared unitary in some respects, the consultants shall not examine the school district on those issues; and

(B) Have complied with their respective consent decrees; and

(3) The consultants shall understand and acknowledge in their work and research that their testimony in court may be required.

(b) The division shall not pay the consultant fees or expenses from moneys appropriated and available for the reimbursement of attorney's fees to the three (3) Pulaski County school districts under § 6-20-416.

(c)(1) The division and the Attorney General also may hire consultants with expertise in the fields of auditing and forensic accounting to provide oversight and management of the three (3) Pulaski County school districts' finances with an emphasis on desegregation funding.

(2) The consultants hired by the division and the Attorney General shall have full authority to examine any documents and software and shall be allowed full access to any persons necessary to discharge the consultants' duties as directed by the division and the Attorney General.

(3) In addition to the authority otherwise granted to the State Board of Education and the division by law, the division may require a school district to modify, update, or change the school district's financial oversight or management policies, procedures, or practices in response to the recommendations of the consultants.

(4) A school district that fails to comply with the requirements of the division under this subsection shall be identified by the division as being in fiscal distress and subject to the applicable enforcement provisions as provided by law.

History. Acts 2007, No. 395, § 2; 2009, No. 242, § 1; 2011, No. 701, § 1; 2019, No. 910, §§ 1598, 1599.

Amendments. The 2019 amendment substituted "Division of Elementary and

Secondary Education" for "Department of Education" in the introductory language of (a); and substituted "division" for "department" throughout (b) and (c).

6-20-416. Desegregation funding.

(a) The Division of Elementary and Secondary Education and the Attorney General are authorized to seek proper federal court review and determination of the current unitary status of any school district in the case of Little Rock School District v. Pulaski County Special School District No. 1, et al., No. LR-C-82-866.

(b)(1) The division and the Attorney General are authorized to seek modification of the current consent decree or enter into a new or an amended consent decree or settlement agreement under this section that allows the State of Arkansas to:

(A) Continue necessary and appropriate payments under a post-unitary agreement to the three (3) Pulaski County school districts for a limited and definite time period not to exceed seven (7) years and for a definite limited sum of payments;

(B) Ensure that the amount of funding provided under the post-unitary agreement is the total maximum obligation of the state and the school districts in the case;

(C) Ensure that the payments required pursuant to the post-unitary agreement are structured so that the total amount of the payments decreases so that no financial obligation remains due or

owed by the state at the end of the time period specified in the post-unitary agreement; and

(D) Ensure that the total of any financial obligation created or established for the state in any one (1) year shall not exceed the state's desegregation obligation for the 2008-2009 school year.

(2)(A) The agreement under this subsection may only be a post-unitary agreement, and the school districts shall receive the continued funding only if they are declared unitary.

(B) However, the agreement does not have to be post-unitary and may commence upon all school districts having been declared, previously or in the future, unitary in terms of student assignment and student racial balance so long as all other requirements in subdivision (b)(1) of this section are met.

(3) Before any agreement is entered into pursuant to this subsection, the proposed post-unitary agreement shall be submitted to the Legislative Council for review and approval.

(c)(1) The division in consultation with the Attorney General shall have the authority to enter into agreements with the three (3) Pulaski County school districts to reimburse the school districts for legal fees incurred for seeking unitary status or partial unitary status.

(2) To be eligible for possible reimbursement under this subsection for legal fees incurred, motions seeking unitary status or partial unitary status shall be filed no later than October 30, 2007, and the school districts must be declared unitary or at least partially unitary by the federal district court no later than December 31, 2012.

(3) Under no circumstances shall any one (1) school district be entitled to reimbursement under this subsection in excess of two hundred fifty thousand dollars (\$250,000).

(4) Before a reimbursement agreement is entered into pursuant to this subsection, the proposed reimbursement agreement shall be submitted to the Legislative Council for review and approval.

(d)(1) By modifying the current consent decree or entering into a new or an amended consent decree or post-unitary agreement, the State Board of Education may create one (1) or more new school districts within Pulaski County if the creation of the new school district or districts does not eliminate the Pulaski County Special School District from existence.

(2) The state board shall seek the federal district court's approval before creating a new school district pursuant to this subsection, unless the federal district court's approval is not required because:

(A) The school district or districts involved have been released from the federal district court's supervision; or

(B) The new school district or districts is contemplated only as part of the post-unitary agreement.

(3) Any new school district created in Pulaski County shall receive a pro rata distribution based on its average daily membership of the funding provided under subsection (b) of this section for the school district or districts from which it was created.

(e)(1) A school district receiving state funds under a federal court order or a settlement agreement in desegregation litigation shall categorize and describe the state funds received and any expenditure of those funds according to the uniform chart of accounts and codes established by the division.

(2) The division shall modify, as necessary, the Arkansas Financial Accounting Handbook or the Arkansas Educational Financial Accounting and Reporting System, or both, to ensure that the uniform chart of accounts and codes is available to accurately monitor:

(A) State funding paid to a school district under the federal court order or settlement agreement; and

(B) All expenditures of that funding.

(3) An error related to the coding and reporting of the state funds that causes a material misstatement of financial information is cause for determining a deficiency under the Division of Elementary and Secondary Education Rules Governing the Arkansas Financial Accounting and Reporting System and Annual Training Requirements.

(f) By September 1 of each year, a school district that receives state funding pursuant to a federal court order or settlement agreement in desegregation litigation shall report to the division, in the form and manner established by the division, the following:

(1) The total amount of state funding received under the federal court order or settlement agreement in the previous school year;

(2) A detailed statement outlining the school district's obligations under the federal court order, settlement agreement, or court-approved remedial plan, including without limitation:

(A) Programs that the school district is required to administer;

(B) Specific goals that the school district is required to reach;

(C) Actions that the school district is required to take or is prohibited from taking;

(D) Problems that the school district is required to remedy;

(E) Overall purposes of the federal court order, settlement agreement, or court-approved remedial plan; and

(F) Any other pertinent information as determined by the division;

(3)(A) An itemized accounting of expenditures of state funds identified under subdivision (f)(1) of this section that were used to comply with the school district's obligations identified under subdivision (f)(2) of this section.

(B) The accounting shall be specific and detailed and include an explanation of how each expenditure was necessary in order to comply with the school district's obligations under the federal court order, settlement agreement, or court-approved remedial plan.

(C) It is not sufficient to provide general statements, such as stating that the funds were used in magnet schools.

(D) The division may determine additional guidelines regarding the necessary level of specificity;

(4) The total amount of all state funds referenced in subdivision (f)(1) of this section that the school district retains; and

(5) A statement that the total amount of funds listed in subdivisions (f)(3) and (4) of this section is equal to the total amount of state funding received, as reported by the school district under subdivision (f)(1) of this section, or alternatively, an explanation of the discrepancy.

(g)(1) A school district not utilizing the Arkansas Public School Computer Network shall provide the division and the Attorney General, or their designees, full and complete, real-time access to the accounting and school district financial management software utilized by the school district.

(2) A school district may satisfy the obligation under subdivision (g)(1) of this section by converting to the Arkansas Public School Computer Network, but the school district still shall provide the division and the Attorney General, or their designees, with full and complete access to the prior financial management system.

(h) This section shall not:

(1) Force entry of a consent decree or settlement agreement by the division or the Attorney General with the three (3) Pulaski County school districts; or

(2) Protect any school district from action or sanction by the division for fiscal, academic, or facilities distress.

History. Acts 2007, No. 395, § 2; 2008 (1st Ex. Sess.), No. 2, §§ 1, 2; 2009, No. 242, § 2; 2011, No. 624, § 1; 2011, No. 701, § 2; 2019, No. 910, §§ 1600-1607.

Amendments. The 2019 amendment substituted "Division of Elementary and

Secondary Education" for "Department of Education" and "division" for "department" throughout the section; and deleted "Upon July 31, 2007" at the beginning of (b)(1).

SUBCHAPTER 5 — FUNDS FOR CHILDREN WITH DISABILITIES AND FOSTER CHILDREN

SECTION.

6-20-502. Definitions.

6-20-503. Rules.

6-20-504. Children living in foster homes.

6-20-505. Children with disabilities —
Receiving district's request for funds.

SECTION.

6-20-507. Children with disabilities —
Hearing before hearing officer.

6-20-510. Confidentiality of records.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019".

6-20-502. Definitions.

As used in this subchapter:

(1)(A) “Child living in a foster home” means a school-age child in this state who is in the custody of the Department of Human Services and placed in a licensed or approved foster home, shelter, or facility, or an exempt child welfare agency as defined under § 9-28-402.

(B) “Child living in a foster home” does not include a school-age child living in any unit of the human development centers operated by the department or its successor;

(2) “Child with disabilities” or “student with disabilities” means a person eligible to attend the public schools in this state who is identified as disabled in accordance with rules promulgated by the State Board of Education under the Children With Disabilities Act of 1973, § 6-41-201 et seq.;

(3) “Federal funds” means any federal funds received by the school district that are of a category or nature that would have benefited a child with disabilities or a child living in a foster home, as defined in this subchapter, if the child had attended the school district during the school year or the portion of the school year but who instead attended another school district in this state which makes application for funds to be used in behalf of the education of the child, as provided in this subchapter;

(4) “Local operating funds” means any local operating funds derived from property taxes for the school year, including any surplus funds received from millage pledged for indebtedness purposes but which are not necessary to meet debt service requirements and are transferred to the operating account of the school district for the year;

(5) “Receiving district” means a school district in this state in which a child attends or seeks to attend school other than the school district of residence of the child;

(6) “Sending district” means the school district that is defined by laws or rules as being the school district of residence of the school-age child; and

(7) “State funds” means any state funds received by the school district under the Public School Funding Act of 2003, § 6-20-2301 et seq., the Arkansas Public School Academic Facilities Funding Act, § 6-20-2501 et seq., or other state special education funds.

History. Acts 1981, No. 815, § 1; A.S.A. 1947, § 80-738; Acts 1993, No. 294, § 13; 1995, No. 1296, § 26; 1999, No. 391, § 17; 2009, No. 376, § 39; 2015, No. 1094, § 2; 2019, No. 315, §§ 274, 275.

Amendments. The 2019 amendment substituted “rules” for “regulations” in (2) and (6).

6-20-503. Rules.

The State Board of Education shall adopt reasonable rules for the administration and enforcement of the provisions of this subchapter and for the carrying out of the purposes and intent of this subchapter

that reasonable procedures be established to assure that funds provided for the education of children living in foster homes and of children with disabilities, as defined in this subchapter, in this state shall be equitably and fairly shared by the school districts having the lawful responsibility for the education of such children in this state.

History. Acts 1981, No. 815, § 6; A.S.A. 1947, § 80-743; Acts 1993, No. 294, § 13; 2019, No. 315, § 276.

Amendments. The 2019 amendment substituted “rules” for “regulations” in the section heading and in the section.

6-20-504. Children living in foster homes.

(a) A school district shall ensure the continuity of educational services for a child living in a foster home so that the child:

(1) Can remain in his or her school of origin in the state, if it is in the child’s best interest;

(2) Is moved to a new school in this state in a timely manner when it is necessary, appropriate, and in the best interest of the child under § 9-28-113;

(3) Can participate in the appropriate educational programs; and

(4) Has access to the academic resources, services, and extracurricular enrichment activities that are available to all students.

(b)(1) In those instances in which a child living in a foster home attends a public school in a school district in which the foster family home or childcare facility is located but, during the previous school year, attended another school district in this state which, due to the average daily membership of that child during the previous school year, receives state equalization aid and other state aid and federal funds for or in behalf of the education of the child during the current school year, the school district in which the foster child is a student may make application to the other school district receiving state and federal funds for the education of the child to remit the pro rata part of such state, federal, and local funds available for the education of the child, including special education funds if the foster child is a child with disabilities, to the school district in which the foster child is now a student.

(2) The application shall be in writing and shall state the name of the child, state the fact that the child is in a foster home in the school district, and request payment to that school district of the state, federal, and local funds, including special education funds, if the foster child is a child with disabilities as defined in this subchapter, available for the education of the child for the current school year due to the attendance of the child at the school attended during the previous year.

(3) If the school district to which the request is made fails or refuses to pay the requested funds to the requesting school district within thirty (30) days after receiving the request, the requesting school district may notify the Division of Elementary and Secondary Education of the fact, and the division shall investigate the facts of the request and the refusal to remit payment.

(4) If the division determines that the funds requested were due the requesting school district as provided in this section, the division shall notify the school districts involved of the determination and shall withhold the amount thereof from the next state aid funds available for distribution to the school district that failed or refused to remit the funds as provided in this subchapter and shall pay the amount over to the requesting school district as provided in this section, to be used for the education of the child living in a foster home who is a student in the school district during the current school year.

History. Acts 1981, No. 815, § 4; A.S.A. 1947, § 80-741; Acts 1993, No. 294, § 13; 1995, No. 1296, § 27; 1999, No. 391, § 18; 2015, No. 1094, § 3; 2019, No. 910, § 1608.

substituted "Division of Elementary and Secondary Education" for "Department of Education" in (b)(3); and substituted "division" for "department" in (b)(3) and twice in (b)(4).

Amendments. The 2019 amendment

6-20-505. Children with disabilities — Receiving district's request for funds.

(a) Whenever any child with disabilities attends or seeks to attend a school district other than the school district in which the child's lawful parents, guardian, or other person in loco parentis to the child resides, the receiving district may make application to the sending district requesting that all state, federal, local, or other funds received by the sending district in behalf of the education of the child for the school year or portion of the school year the child attends school in the receiving district be remitted by the sending district to the receiving district.

(b) Before requesting such funds, the requesting district shall have made a determination that:

(1) The child is a child with disabilities as defined in this subchapter and the applicable rules promulgated by the State Board of Education, as provided in this subchapter;

(2) The attendance of the child with disabilities in the school district is in the best interest of the education of the child with disabilities;

(3) The receiving district has accepted or is willing to accept the child with disabilities as a student; and

(4) The request for attendance at the receiving district is not based upon any racial or other reason that might be contrary to the laws and regulations of the United States or of this state or the rules promulgated by the state board under the provisions of this subchapter.

(c) The request for funds from the sending district shall be prepared by the receiving district in writing, setting forth the name of the child, the name and address of the parents, guardian, or other person lawfully responsible for the child, stating the reasons why the child is in attendance or seeks to attend the receiving district instead of the district in which the child should be in attendance, and stating that the receiving district has determined it is in the best interest of the education of the child with disabilities that the child be permitted to attend school in the receiving district.

History. Acts 1981, No. 815, § 3; A.S.A. 1947, § 80-740; Acts 1993, No. 294, § 13; 2019, No. 315, §§ 277, 278.

Amendments. The 2019 amendment deleted “and regulations” following “rules” in (b)(1) and (b)(4).

6-20-507. Children with disabilities — Hearing before hearing officer.

(a)(1) Upon receipt of the written response, the requesting district in which the child is in attendance may, if the request is rejected, make application to the State Board of Education for a hearing officer to be designated to hold a hearing in regard to the request and to report recommendations to the state board.

(2) The hearing shall be held not less than thirty (30) days nor more than sixty (60) days from the date of the request for the appointment of a hearing officer.

(3) The hearing officer shall, at least ten (10) days before the hearing, notify the requesting district, the district to which the request is made, and all persons having an interest in or knowledge of the circumstances pertinent thereto, and the notice shall state the time and place of the hearing, which shall be held at a place designated by the hearing officer in a county in which one (1) of the school districts is located.

(4) At the hearing, the designated officials of the affected school districts and other interested parties shall appear and furnish testimony as requested by the hearing officer in regard to the request for the payments in behalf of the child.

(5) Upon conclusion of the hearing or within ten (10) days thereafter, the hearing officer shall file a written report, together with the hearing officer's recommendations, with the state board, with a copy thereof to be furnished to the superintendent of schools of the affected school districts.

(b)(1) The hearing officer may recommend approval of the request to the state board if the hearing officer determines that:

(A) The application is made by or in behalf of a child with disabilities as defined in this subchapter;

(B) It is in the best interest of the education of the child to be admitted to or to continue to attend school in the receiving district;

(C) The child's educational needs can be better served in the receiving district; and

(D) The request for attendance at the receiving district is not based upon any racial or other reason that might be contrary to the laws, rules, and regulations of the United States or of this state or the rules promulgated by the state board under the provisions of this subchapter.

(2) Any district aggrieved by the report and recommendations of the hearing officer may appeal to the state board within thirty (30) days after the date of the ruling of the hearing officer.

History. Acts 1981, No. 815, § 3; A.S.A. 1947, § 80-740; Acts 1993, No. 294, § 13; 2019, No. 315, § 279.

Amendments. The 2019 amendment, in (b)(1)(D), inserted the first occurrence of “rules” and deleted “and regulations”

following the second occurrence of “rules”.

6-20-510. Confidentiality of records.

All files and records that are required by the laws of this state or under the provisions of applicable federal laws or regulations to be kept confidential and all court orders pertaining to the confidentiality of records or prohibiting or limiting the disclosure thereof pertaining to a child living in a foster home or a child with disabilities under the provisions of this subchapter shall be strictly complied with by the respective school districts and by the Division of Elementary and Secondary Education in all correspondence and transactions pertaining to the administration of the provisions of this subchapter.

History. Acts 1981, No. 815, § 5; A.S.A. 1947, § 80-742; Acts 1993, No. 294, § 13; 2019, No. 910, § 1609.

Amendments. The 2019 amendment

substituted “Division of Elementary and Secondary Education” for “Department of Education”.

SUBCHAPTER 6 — LOCAL SCHOOL DISTRICT ISOLATED FUNDING

SECTION.

6-20-601. Qualifications for receiving isolated funding — Definition.

SECTION.

6-20-602. Isolated schools — Definition.
6-20-603. Continued support of isolated school districts.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

6-20-601. Qualifications for receiving isolated funding — Definition.

- (a) As used in this section, “isolated school district” means a school district that meets any four (4) of the following five (5) criteria:
- (1) There is a distance of twelve (12) miles or more by hard-surfaced highway from the high school of the district to the nearest adjacent high school in an adjoining district;
 - (2) The density ratio of transported students is less than three (3) students per square mile of area;

(3) The total area of the district is ninety-five square miles (95 sq. mi.) or greater;

(4) Less than fifty percent (50%) of bus route miles is on hard-surfaced roads; and

(5) There are geographic barriers such as lakes, rivers, and mountain ranges that would impede travel to schools that otherwise would be appropriate for consolidation, cooperative programs, and shared services.

(b) An isolated school district shall be eligible to receive isolated funding under this section if:

(1) The school district's budget is prepared by the school district with Division of Elementary and Secondary Education approval;

(2) The school district has a prior-year three-quarter average daily membership of fewer than three hundred fifty (350); and

(3) The school district and each school within the school district meets the minimum standards for accreditation of public schools prescribed by law and rule.

(c) Any school district designated as an isolated school district for the 1996-1997 fiscal year that used geographic barriers as one (1) of the four (4) criteria necessary to receive isolated funding shall be allowed to continue to use geographic barriers as a criterion for future allocations of isolated funding.

(d)(1) State financial aid in the form of isolated funding shall be provided to school districts qualifying under this section.

(2) There are two (2) categories of isolated funding:

(A) Category I isolated funding shall be provided to all school districts that qualify under this section and shall be calculated as:

(i) Three hundred fifty (350) minus the prior-year three-quarter average daily membership; divided by

(ii) Eight hundred fifty (850); multiplied by

(iii) The prior-year three-quarter average daily membership; and multiplied by

(iv) The per-student foundation funding amount under § 6-20-2305(a)(2); and

(B) Category II isolated funding shall be additionally provided to those school districts that qualify under this section and have a prior-year three-quarter average daily membership density ratio of less than one and two-tenths (1.2) students per square mile and shall be calculated at fifty percent (50%) of Category I funding.

(3)(A) An isolated school district whose per-student revenue exceeds the per-student foundation funding amount shall receive isolated funding calculated as follows:

(i) The sum of Category I plus Category II; minus

(ii) The per-student foundation funding amount; minus

(iii) The school district's per-student revenue; and multiplied by

(iv) The prior-year three-quarter average daily membership.

(B) As used in this subdivision (d)(3), "revenue" has the same meaning as defined in § 6-20-2303.

(e)(1) Except as provided under subdivision (e)(2) of this section, a school district that qualifies under § 6-20-603 to receive additional state aid because its prior-year three-quarter average daily membership is less than three hundred fifty (350) is not eligible to receive funding under this section.

(2) A school district may elect to receive funding under this section in lieu of funding under § 6-20-603 if the school district qualifies for funding under § 6-20-603 and for funding under this section.

History. Acts 1997, No. 1318, § 1; 1999, No. 1549, § 21; 2001, No. 1220, § 11; 2011, No. 1131, § 1; 2015, No. 846, § 12; 2019, No. 315, § 280; 2019, No. 910, § 1610.

by No. 315 substituted “rule” for “regulation” in (b)(3).

The 2019 amendment by No. 910 substituted “Division of Elementary and Secondary Education” for “Department of Education” in (b)(1).

Amendments. The 2019 amendment

6-20-602. Isolated schools — Definition.

(a) “Isolated school” means a school within a school district that:

(1) Before administrative consolidation or annexation under this section, the Public Education Reorganization Act, § 6-13-1601 et seq., and § 6-13-1405(a)(5) [repealed] qualified as an isolated school district under § 6-20-601; and

(2) Is subject to administrative consolidation or annexation under this section, the Public Education Reorganization Act, § 6-13-1601 et seq., and § 6-13-1405(a)(5) [repealed].

(b) Any isolated school within a resulting or receiving district shall remain open unless the school district board of directors of the resulting or receiving district adopts a motion to close the isolated school or parts thereof by:

(1) Unanimous vote of the full board of directors; or

(2)(A) A majority vote of the full board of directors, but less than a unanimous vote, and the motion is considered by and approved by a majority vote of members of the State Board of Education.

(B)(i) Any school district board of directors seeking the state board’s approval to close isolated schools or parts thereof under subdivision (b)(2)(A) of this section shall no less than thirty (30) days before a regularly scheduled state board meeting, request a hearing on the matter before the state board and file a petition to have the motion reviewed and approved by the state board.

(ii) The petition shall:

(a) Identify the specific isolated schools or part thereof that the local board of directors has moved to close;

(b) State all reasons that the isolated schools or part thereof should be closed;

(c) State how the closure will serve the best interests of the students in the district as a whole;

(d) State if the closure will have any negative impact on desegregation efforts or violate any valid court order from a court of proper jurisdiction; and

- (e) Have attached a copy of the final motion approving the closure by the local board of directors.
- (C)(i) Upon receiving a petition for approval of a motion to close all or part of an isolated school under subdivision (b)(2)(A) of this section, the state board shall have the authority to review and approve or disapprove the petition.
- (ii) The state board shall only approve a motion to close isolated schools or parts thereof under subdivision (b)(2)(A) of this section if the closure is in the best interest of the students in the school district as a whole.
- (iii) The state board shall not close a school if the state board finds that the closure will have any negative impact on desegregation efforts or will violate any valid court order from a court of proper jurisdiction.
- (D)(i) Except under subdivision (b)(2)(D)(ii) of this section, the state board shall not require the closure of all or part of an isolated school without a motion from the local board of directors as required under subdivision (b)(2)(A) of this section.
- (ii) This section shall not be construed to restrict the authority of the Division of Elementary and Secondary Education and the state board otherwise granted by law.
- (c) Funding for isolated school districts shall be expended by the resulting or receiving district only on the operation, maintenance, and other expenses of the isolated schools within the resulting or receiving district.

History. Acts 2003 (2nd Ex. Sess.), No. 60, § 5; 2005, No. 1397, § 2; 2011, No. 1131, § 2; 2019, No. 910, § 1611.

Amendments. The 2019 amendment

substituted “Division of Elementary and Secondary Education” for “Department of Education” in (b)(2)(D)(ii).

6-20-603. Continued support of isolated school districts.

(a) Upon the effective date of consolidation, annexation, or reorganization, the following school districts that received isolated funding in the 2003-2004 school year shall become isolated school areas for the sole purpose of receiving isolated funding and shall have a per student isolated funding amount as follows:

County	School District	Per Student Isolated
<u>Column A</u>	<u>Column B</u>	<u>Column C</u>
Van Buren	Alread	2,219
Desha	Arkansas City	2,040
Randolph	Biggers-Reyno	763
Miller	Bright Star	916
Marion	Bruno-Pyatt	329
Dallas	Carthage	1,938
Independence	Cord-Charlotte	235

County	School District	Per Student Isolated
<u>Column A</u>	<u>Column B</u>	<u>Funding Amount</u>
		<u>Column C</u>
Woodruff	Cotton Plant	733
Crittenden	Crawfordsville	642
Newton	Deer	853
Greene	Delaplaine	215
Desha	Delta Special	952
Nevada	Emmet	307
Sharp	Evening Shade	115
Ashley	Fountain Hill	339
Yell	Fourche Valley	1,603
Arkansas	Gillett	1,000
Lincoln	Gould	765
Lincoln	Grady	560
Polk	Hatfield	42
Monroe	Holly Grove	868
Arkansas	Humphrey	328
Union	Huttig	668
Cleveland	Kingsland	394
Madison	Kingston	661
Phillips	Lake View	1,054
Searcy	Leslie	628
Lawrence	Lynn	782
Columbia	McNeil	329
Union	Mount Holly	898
Newton	Mount Judea	622
Izard	Mount Pleasant	225
Johnson	Oark	1,576
Montgomery	Oden	671
Saline	Paron	733
Yell	Plainview-Rover	297
Franklin	Pleasant View	679
Randolph	Randolph County	444
Lawrence	River Valley	106
Stone	Rural Special	788
Searcy	Saint Joe	727
Madison	Saint Paul	123
Hempstead	Saratoga	1,407
Van Buren	Scotland	1,841
Dallas	Sparkman	487
Ouachita	Stephens	1
Stone	Stone County	367

County	School District	Per Student Isolated
<u>Column A</u>	<u>Column B</u>	<u>Funding Amount</u>
Jackson	Swifton	458
Columbia	Taylor	353
Howard	Umpire	2,152
Union	Union	45
Columbia	Walker	819
Newton	Western Grove	375
Cleburne	Wilburn	978
Sharp	Williford	475
Washington	Winslow	494

(b) Each school year, state financial aid in the form of isolated funding shall be provided to school districts containing an isolated school area in an amount equal to the prior-year three-quarter average daily membership of the isolated school area multiplied by the per student isolated funding amount for the isolated school areas as set forth under column "C" of subsection (a) of this section.

(c)(1) Except as provided under subdivision (c)(2) of this section, a school district may not receive isolated funding under this section for an isolated school area if the prior-year three-quarter average daily membership of the isolated school area exceeds three hundred fifty (350).

(2) A school district is entitled to receive the funding under this section for an isolated school area received by the school district in:

(A) A consolidation under § 6-13-1401 et seq. or the Public Education Reorganization Act, § 6-13-1601 et seq.; or

(B) An annexation under § 6-13-1401 et seq. or the Public Education Reorganization Act, § 6-13-1601 et seq.

(d) A school district receiving isolated funding for an isolated school area shall expend the funds solely for the operation, maintenance, and support of the isolated school area.

(e)(1) Except as provided under subdivision (e)(2) of this section, a school district that qualifies under § 6-20-601 to receive additional state aid because its prior-year three-quarter average daily membership is less than three hundred fifty (350) is not eligible to receive funding under this section.

(2) A school district may elect to receive funding under this section in lieu of funding under § 6-20-601 if the school district qualifies for funding under § 6-20-601 and for funding under this section.

(f) For the purposes of this section, school districts with isolated school areas shall account for the average daily membership of all schools located in the isolated school areas as required by the Division of Elementary and Secondary Education and shall submit reports as required by the division.

(g) The division shall distribute isolated funding under this section in two (2) payments per school year.

(h) This section does not determine a school district’s qualification as an isolated school district under § 6-20-601 as required to prohibit the closing of an isolated school in § 6-20-602.

(i)(1)(A) If all of an isolated school area in a school district is closed, the school district shall receive funding based on the prior-year three-quarter average daily membership of the isolated school area.

(B) If part of an isolated school area in a school district is closed, the school district funding is based on the prior-year three-quarter average daily membership of the part of the isolated school area that remains open.

(C) Funding received by a school district under this subsection is restricted for use at the closed isolated school area or for transporting students of the closed isolated school area to another school in the district.

(2) If a closed isolated school area is subsequently used by the school district for an alternative learning environment program or other regular classroom teaching, the school district using the now closed isolated school area may submit prior-year three-quarter average daily membership to the state to request funding under this section.

(j) The State Board of Education may promulgate rules as necessary for the proper implementation of this section.

History. Acts 2003 (2nd Ex. Sess.), No. 65, § 1; 2007, No. 1573, §§ 29, 30; 2009, No. 811, § 1; 2011, No. 996, § 1; 2011, No. 1131, § 3; 2019, No. 910, § 1612.

Amendments. The 2019 amendment

substituted “Division of Elementary and Secondary Education” for “Department of Education” in (f); and substituted “division” for “department” in (f) and (g).

SUBCHAPTER 7 — SCHOOL LUNCH PROGRAM

SECTION.

6-20-702. Administration generally.

6-20-704. Regulation and supervision of accounts, records, and operations.

SECTION.

6-20-709. School lunch menus.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

6-20-702. Administration generally.

(a) The State Board of Education may enter into such agreements with any agency of the United States Government, with any school district, or with any other agency or person and may prescribe such rules, employ such personnel, and take such other action as it may deem necessary to provide for the establishment, maintenance, operation, and expansion of any school lunch program and to direct the disbursement of federal and state funds, in accordance with any applicable provisions of federal or state law.

(b) The state board may give technical advice and assistance to any school district in connection with the establishment and operation of any school lunch program and may assist in training personnel engaged in the operation of such program.

History. Acts 1947, No. 157, § 3; A.S.A. 1947, § 80-127; Acts 2019, No. 315, § 281. **Amendments.** The 2019 amendment substituted “rules” for “regulations” in (a).

6-20-704. Regulation and supervision of accounts, records, and operations.

(a) The State Board of Education shall prescribe rules for the keeping of accounts and records and the making of reports by or under the supervision of school districts.

(b) These accounts and records shall at all times be available for inspection and audit by authorized officials and shall be preserved for such period of time, not in excess of five (5) years, as the state board may lawfully prescribe.

(c) The state board shall conduct or cause to be conducted such audits, inspections, and administrative reviews of accounts, records, and operations with respect to school lunch programs as may be necessary to determine whether its agreements with the school district regulations made pursuant to this subchapter are being complied with and to ensure that school lunch programs are effectively administered.

History. Acts 1947, No. 157, § 5; A.S.A. 1947, § 80-129; Acts 2019, No. 315, § 282. **Amendments.** The 2019 amendment substituted “rules” for “regulations” in (a).

6-20-709. School lunch menus.

(a) In addition to following the dietary guidelines of the National School Lunch Program, each school district shall provide to the school district’s school nutrition and physical activity advisory committee:

(1) Information on the requirements and standards of the program; and

(2) Menus for the program and other food sold in the school cafeteria on a quarterly basis.

(b) The school nutrition and physical activity advisory committee shall provide recommendations to the school district concerning menus and other foods sold in the school cafeteria.

(c) The Child Health Advisory Committee, the Child Nutrition Unit, and the Department of Health shall provide technical assistance as necessary.

History. Acts 2005, No. 2285, § 1; Secondary Education” for “Department of Education” following “Child Nutrition Unit of the” in (c).

Amendments. The 2019 amendment substituted “Division of Elementary and

SUBCHAPTER 8 — REVOLVING LOAN PROGRAM — GENERAL PROVISIONS

SECTION.

6-20-801. Continuance of Revolving Loan Fund.

6-20-811. Delivery of obligations — Drawing and receipt of warrant — Use of funds.

SECTION.

6-20-814. Default or threatened default.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

6-20-801. Continuance of Revolving Loan Fund.

(a) The fund in the State Treasury known as the “Revolving Loan Fund” shall continue, under the exclusive jurisdiction of the State Board of Education, as the lending fund for the Public School Fund.

(b) All unencumbered assets, both cash and securities, in the Revolving Loan Fund shall remain inviolate and intact as though in the Public School Fund and shall be held by the Treasurer of State, as custodian, subject, however, to its administration by the state board for the purposes provided in this subchapter.

(c) All earnings received on the investment of assets held in the Revolving Loan Fund shall be used for the following purposes, and in the following order of priority:

(1) To pay expenses of the operation of the revolving loan program administered by the state board and the Division of Elementary and Secondary Education; and

(2) To fund revolving loans made pursuant to § 6-20-802 or any like or successor law.

History. Acts 1953, No. 384, § 1; A.S.A. 1947, § 80-941; Acts 1993, No. 501, § 1; 2019, No. 910, § 1614. substituted “Division of Elementary and Secondary Education” for “Department of Education” in (c)(1).

Amendments. The 2019 amendment

6-20-811. Delivery of obligations — Drawing and receipt of warrant — Use of funds.

(a) All such obligations shall be delivered to the State Board of Education, and coincident therewith the Commissioner of Elementary and Secondary Education shall cause a state warrant to be drawn upon the Revolving Loan Fund or the Revolving Certificate Proceeds Account, payable to the treasurer of the issuing school district if the school district has a treasurer or to the county treasurer of the county in which the school district is located if the school district does not have a treasurer, in an amount equal to the principal amount of the revolving loan bonds or revolving loan certificates of indebtedness.

(b) Upon receipt of the state warrant, the school district treasurer or the county treasurer, as the case may be, shall deposit the proceeds thereof to the credit of the school district, and such funds shall thereafter be used by the school district only for the purposes for which the loan is granted.

(c) All revolving loan bonds or revolving loan certificates of indebtedness shall be negotiable instruments, as set forth in § 6-20-806, and any or all such obligations may be assigned and sold by the commissioner.

(d) Any sale pursuant to subsection (c) of this section shall be in the open market upon not fewer than four (4) invitations for bids and, in consummation of any such sale, the commissioner, or such other person as may be designated by the state board, may execute and deliver such assignments, notices, servicing agreements, and other agreements and writings as may be appropriate.

(e) The proceeds of any sale pursuant to this section shall be deposited into the Revolving Certificate Proceeds Account, subject to payment of the costs of sale and servicing of such revolving loan bonds or revolving loan certificates of indebtedness, as set forth in written instructions executed by the commissioner or such other person as may be designated by the state board.

(f) The state board shall have authority to adopt rules necessary to implement this section.

History. Acts 1953, No. 384, § 11; 1973, No. 59, § 7; 1979, No. 541, § 2; A.S.A. 1947, § 80-951; Acts 1991, No. 1185, § 1; 1993, No. 977, § 1; 2019, No. 315, § 283.

Amendments. The 2019 amendment deleted “and regulations” following “rules” in (f).

6-20-814. Default or threatened default.

(a) In the event of a default or threatened default in the payment of the principal of or interest on any revolving loan bonds or revolving loan

certificates of indebtedness, the Commissioner of Elementary and Secondary Education is authorized and directed to withhold from the apportionment otherwise due any borrowing school district, moneys in amounts sufficient to obviate or avoid any default or threatened default.

(b) The Chief Fiscal Officer of the State shall prescribe the method of procedure to be followed in any such event to obviate or avoid any default or threatened default.

(c) Under such rules as shall be established by the Chief Fiscal Officer of the State, all maturities of principal and interest, as and when due, may be withheld from any such apportionments when mutually agreeable to the commissioner and the board of directors of the debtor school district.

History. Acts 1953, No. 384, § 15; 1973, No. 59, § 8; A.S.A. 1947, § 80-955; Acts 2019, No. 315, § 284.

Amendments. The 2019 amendment deleted “and regulations” following “rules” in (c).

SUBCHAPTER 12 — DISTRICT BONDS

SECTION.	SECTION.
6-20-1204. Form of bonds — Security.	6-20-1218. Refunding bonds — Maximum amounts — Conversion and sale.
6-20-1205. Submission of statement before issuing bonds — Approval.	6-20-1223. Refunding bonds — Issuance without election.
6-20-1206. Manner and terms of sale — Maximum rate of interest.	
6-20-1216. Refunding bonds — Authority to use.	

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

6-20-1204. Form of bonds — Security.

(a) School bonds shall be issued by a school district in the form prescribed by the school district’s board of directors.

(b) School bonds may be secured by debt service millage.

(c)(1) As additional security for the payment of any bond of a school district, the Commissioner of Elementary and Secondary Education

shall cure a delinquency in payment by withholding state funding due the district.

(2)(A)(i) When the designated paying agent for receipt of the district's payments does not receive a payment when due pursuant to the authorizing documents, the paying agent is entitled to payment from the withheld state funding in an amount sufficient to cure the payment deficiency if the designated paying agent notifies the commissioner and the superintendent of the school district by telephone, facsimile, or other similar communication followed by written verification.

(ii) Unless the commissioner determines that payment has been made by the school district and that there is not a payment deficiency, the commissioner shall withhold from the next distribution of state funding and remit to the paying agent an amount sufficient to cure the deficiency.

(B) If the amount next due to be distributed to the delinquent school district is not sufficient to cure the delinquency, the commissioner shall continue to withhold state funding as due and remit it to the paying agent until the payment deficiency has been cured.

(C) If the commissioner is notified that a school district is delinquent on two (2) or more obligations, the commissioner shall make payment to paying agents in the order of receipt of notices of the delinquencies.

(3) If the commissioner withholds state funding from a school district pursuant to this subsection, the Division of Elementary and Secondary Education shall identify the school district to be a school district in fiscal distress under the Arkansas Fiscal Assessment and Accountability Program, § 6-20-1901 et seq.

(4) The requirements of this subsection apply to bonds issued by a school district before July 1, 2013.

(d)(1) For school bonds issued by a school district on or after July 1, 2013, a school district shall submit bond payments to its designated paying agent not later than fifteen (15) calendar days before the date the payments are due under the authorizing documents.

(2) Whenever the designated paying agent does not receive a payment within the time period in subdivision (d)(1) of this section, the paying agent immediately shall notify the commissioner and the superintendent of the school district in writing.

(3)(A) If the designated paying agent does not receive the bond payment from the district at least five (5) calendar days before the date the payment is due under the authorizing documents, the division immediately shall cure any deficiency in payment by making payment in the full amount of the deficiency to the designated paying agent.

(B) If the commissioner determines that payment has been made by the school district and that a payment deficiency does not exist, the division shall not make the payment under subdivision (d)(3)(A) of this section.

(C) If the division makes payment under subdivision (d)(3)(A) of this section, it may identify the school district on behalf of which the payment is made to be a school district in fiscal distress under the program.

(D)(i) If the division makes payment under subdivision (d)(3)(A) of this section, a school district shall be indebted to the division in the full amount paid by the division and immediately shall remit the full amount to the division.

(ii) If a school district does not remit the full amount to the division under subdivision (d)(3)(D)(i) of this section, the division shall withhold from the school district the next distribution of state funding in an amount sufficient to reimburse the division for the payment.

(iii) In the event that the amount of state funding next due to be distributed to the school district is not sufficient to reimburse the division, the division shall continue to withhold state funding due to the school district until the division is fully reimbursed.

(iv) If the commissioner determines that payment has been made to the division by the school district and that the obligation of the school district to the division no longer exists, the division shall not withhold from the school district the distribution of state funding under subdivisions (d)(3)(D)(ii) and (iii) of this section.

(e) As used in subsections (c) and (d) of this section, "state funding" includes without limitation:

(1) The following state funding under § 6-20-2305:

- (A) State foundation funding aid;
- (B) Declining enrollment funding;
- (C) Student growth funding; and
- (D) State categorical funding;

(2) Isolated funding and additional isolated funding under § 6-20-601 et seq.; and

(3) Other funding due to a school district under an appropriation of the General Assembly.

(f) Holders of bonds of the school district shall have a first and prior right and security interest in the revenue produced by the debt service millage pledged by the school district to the payment of its bonds.

(g) The State Board of Education may promulgate the rules necessary to administer this section.

History. Acts 1931, No. 169, § 61; Pope's Dig., § 11494; Acts 1975, No. 220, § 1; A.S.A. 1947, § 80-1104; Acts 1997, No. 1300, § 17; 1997 No. 1329, § 1; 2013, No. 110, § 1; 2019, No. 315, § 285; 2019, No. 910, §§ 1615-1617.

Amendments. The 2019 amendment by No. 315 deleted "and regulations" following "rules" in (g).

The 2019 amendment by No. 910 substituted "Commissioner of Elementary and Secondary Education" for "Commissioner of Education" in (c)(1); substituted "Division of Elementary and Secondary Education" for "Department of Education" in (c)(3); and substituted "division" for "department" throughout (d)(3).

6-20-1205. Submission of statement before issuing bonds — Approval.

(a) When any school district board of directors desires to issue bonds for the purposes described in § 6-20-1201, the school district board of directors:

(1) Shall furnish to the Commissioner of Elementary and Secondary Education a statement of the amount proposed to be borrowed and of the maturity of the indebtedness, a financial statement of the affairs of the school district, and a certificate from the county clerk showing the then-assessed valuation of the real, personal, and utility property in the school district; and

(2) Shall not sell bonds until the issue is approved by the State Board of Education or by the commissioner, to be evidenced by a writing signed by the state board or the commissioner and bearing the seal of the state board.

(b) In addition to other reasons for disapproval of a bond issue provided under law or by rule, neither the state board nor the commissioner shall approve the sale of bonds for the purposes described in § 6-20-1201 if that sale would cause an increase in the millage levy without a vote of the electors of that school district.

(c) The Division of Elementary and Secondary Education is authorized to adopt procedural rules to enforce the provisions of this section.

History. Acts 1931, No. 169, § 62; Pope's Dig. § 11495; A.S.A. 1947, § 80-1105; Acts 1997, No. 1300, § 18; 1999, No. 1046, § 1; 1999, No. 1549, § 22; 2001, No. 1220, § 17; 2003 (2nd Ex. Sess.), No. 28, § 3; 2003 (2nd Ex. Sess.), No. 105, § 4; 2005, No. 2121, § 14; 2019, No. 315, § 286; 2019, No. 910, §§ 1618, 1619.

Amendments. The 2019 amendment by No. 315 substituted "rule" for "regula-

tion" in (b); and deleted "and regulations" following "rules" in (c).

The 2019 amendment by No. 910 substituted "Commissioner of Elementary and Secondary Education" for "Commissioner of Education" in (a)(1); and substituted "Division of Elementary and Secondary Education" for "Department of Education" in (c).

6-20-1206. Manner and terms of sale — Maximum rate of interest.

(a)(1) All school bonds shall be sold to the highest bidder at public sale.

(2)(A)(i) Advertisement of a bond sale under this section shall be published on at least two (2) separate dates in a newspaper that is published in or has a bona fide circulation in the county in which the school district is administered.

(ii) The first publication shall be at least eight (8) days before the date of the sale, with the second publication on any date before the date of the sale.

(B)(i) If the newspaper responsible for publishing the advertisement of a bond sale does not publish either or both of the two (2) publications required under this subsection within the required time

frame, the Commissioner of Elementary and Secondary Education may approve an alternate form of advertisement of the bond sale.

(ii) The public school district shall use the alternate form of advertisement only for the bond sale related to the failed publication.

(iii) Within thirty (30) days after the sale of bonds is completed for which an alternate form of advertisement is used by a public school district under this subdivision (a)(2)(B), the public school district shall provide by one (1) publication in a newspaper published in the county a notice:

(a) Of the date of the sale and the principal amount of the bonds sold; and

(b) That the alternate form of advertisement was used.

(3) At any time after receiving bids on bonds, all bids may be rejected and the bonds readvertised for the time and in the manner provided under subdivision (a)(2) of this section.

(4) The bonds shall bear interest at a rate or rates not exceeding the maximum lawful rate as defined in subsection (b) of this section.

(5) Bonds may be sold at a discount, but in no event shall the school district be required to pay more than the maximum lawful rate of interest on the amount received.

(6) Bonds may be sold with the privilege of conversion into bonds bearing a lower rate or rates of interest, but the school district shall receive no less and pay no more in principal and interest combined than it would receive and pay if the bonds were not converted.

(7) The school district shall pay the expenses of issuing the bonds and may supply the opinion of attorneys approving the validity of the bonds.

(8) No brokerage, agent's fees, or commissions of any kind for securing bids for the sale of school district bonds shall be allowed or paid on any bond sale unless it is approved by the commissioner, and any person giving or receiving it without approval shall be guilty of a Class A misdemeanor.

(b) The State Board of Education may establish a maximum rate of interest at which school bonds may be sold under the conditions stated in subsection (a) of this section:

(1) If the state board establishes a maximum rate of interest under this subsection, bonds issued under this section shall not bear interest at a rate exceeding the maximum rate established by the state board; and

(2) A bond issued under this section may be sold at a discount, but in no event shall a school district be required to pay more than the maximum rate of interest established by the state board.

History. Acts 1931, No. 169, § 63; Pope's Dig., § 11496; Acts 1970 (1st Ex. Sess.), No. 64, § 1; 1980 (1st Ex. Sess.), No. 56, § 1; 1981, No. 812, § 1; 1983, No. 880, § 1; A.S.A. 1947, § 80-1106; Acts 1999, No. 1045, § 1; 2003, No. 210, § 3; 2005, No. 1994, § 197; 2009, No. 1466, § 1; 2015, No. 846, § 22; 2017, No. 935, § 1; 2019, No. 848, § 1.

Amendments. The 2019 amendment, in (a)(2)(A)(i), substituted "that is published in or has a bona fide circulation in

the county in which the school district is administered" for "published in the county".

6-20-1216. Refunding bonds — Authority to use.

(a) Any school district of Arkansas shall have the right, subject to procedural rules adopted by the Division of Elementary and Secondary Education, to refund its bonds outstanding at any time. Any division rule that would prevent or delay a school district from refunding outstanding bonds may be waived by the Commissioner of Elementary and Secondary Education or the commissioner's designee provided that the commissioner or the commissioner's designee determines that it is in the best interest of the school district to proceed with the refunding immediately.

(b) This shall include the right to refund any loan it may at any time have outstanding from the Revolving Loan Fund.

History. Acts 1941, No. 95, § 1; A.S.A. 1947, § 80-1123; Acts 1999, No. 1046, § 3; 2019, No. 315, § 287; 2019, No. 910, § 1620.

Amendments. The 2019 amendment by No. 315, in (a), deleted "and regulations" following "rules" in the first sentence, and deleted "or regulation" following "rule" in the second sentence.

The 2019 amendment by No. 910, in (a), substituted "Division of Elementary and Secondary Education" for "Department of Education", "division" for "department", and "Commissioner of Elementary and Secondary Education" for "Commissioner of Education".

6-20-1218. Refunding bonds — Maximum amounts — Conversion and sale.

(a) When the refunding bonds are issued to be exchanged for outstanding bonds, it shall not be necessary to advertise them for sale, but they may be executed and delivered to the Division of Elementary and Secondary Education, and the Commissioner of Elementary and Secondary Education shall, from time to time, as outstanding bonds are presented to him or her for exchange, certify and deliver refunding bonds in face value of the same proportion of the total face value of the refunding bond issue that the face value of the surrendered bonds bears to the total face value of the outstanding bonds to be refunded.

(b)(1) Refunding bonds may be exchanged for outstanding bonds, as provided in this section, or they may be sold for cash and the proceeds used to pay the outstanding bonds, or part of the refunding bonds may be exchanged and part of the refunding bonds may be sold, as the board of directors may deem best for the school district.

(2) In the event that after a school district has exchanged part of a refunding issue that has been converted to a lower interest rate as herein authorized and it becomes necessary or desirable to sell the balance of such a refunding issue to pay the bonds being refunded instead of exchanging them for refunding bonds, the school district may then advertise and sell the balance at the rate of interest to which the issue has been converted.

(c) If the refunding bonds are sold at public sale to refund outstanding bonds that have been called for redemption, they shall be fully executed and delivered to the designated escrow agent who shall have authority to surrender them, on and after the redemption date of the bonds being refunded, to the purchaser upon the deposit with the escrow agent on or before the redemption date of the money necessary for the redemption of the bonds being refunded.

(d)(1) In order to facilitate the refunding of school bonds, any school district issuing refunding bonds may issue certificates of indebtedness maturing in one (1) to five (5) years, payable to bearer and negotiable, to cover the costs of refunding or interest due on outstanding bonds at the time they are exchanged for refunding bonds, or both.

(2) The certificates of indebtedness shall be paid out of the debt service fund of the school district from any surplus that remains in the debt service fund in any years after the payment of the full amount of bonds and interest due that year on the refunding issue.

(3) Any certificates of indebtedness issued in connection with an issue of refunding bonds shall be registered by the county treasurer.

(4) All certificates of indebtedness thus issued and registered shall not be invalidated because at the time of their issuance or at their maturity date there is not a surplus in the debt service fund available for their payment, but they shall continue as valid obligations of the school district until such a surplus in the debt service fund has accumulated for their payment.

History. Acts 1941, No. 95, § 1; A.S.A. 1947, § 80-1123; Acts 2005, No. 2121, § 16; 2011, No. 989, § 68; 2019, No. 910, § 1621.

substituted "Division of Elementary and Secondary Education" for "Department of Education" and "Commissioner of Elementary and Secondary Education" for "Commissioner of Education" in (a).

Amendments. The 2019 amendment

6-20-1223. Refunding bonds — Issuance without election.

(a) School districts of this state may issue refunding bonds without the necessity of submitting the question of issuing the refunding bonds to a vote of the electors of the school district and without the approval of the State Board of Education provided that:

(1) The last maturity date of the refunding bonds is not later than the last maturity date of the bonds being refunded;

(2) The total amount required to pay principal and interest of the refunding bonds as they become due and payable, as well as any issuance costs required to be paid by the school district, exclusive of issuance costs paid from the proceeds of the refunding bonds, must be less than the total amount required to pay principal and interest of the bonds being refunded as they become due and payable; and

(3) The issue has been approved by the Commissioner of Elementary and Secondary Education or the commissioner's designee subject to Division of Elementary and Secondary Education rules.

(b)(1) Refunding bonds, authorized by a resolution of the board of directors of the school district issuing them, may enjoy the same

security for their payment as was enjoyed by the bonds refunded thereby, including particularly, and without limitation, any continuing annual debt service fund taxes voted and pledged to the payment of the bonds refunded thereby, except that, in all school districts operating pursuant to federal court desegregation decrees, the refunding bonds may but shall not be required to enjoy the same security for payment as was enjoyed by the bonds refunded.

(2) Except as to the particulars dealt with in this section, refunding bonds shall be governed insofar as their authorization and security are concerned by provisions of existing law.

History. Acts 1965, No. 43, § 1; 1975 (Extended Sess., 1976), No. 1233, § 1; A.S.A. 1947, § 80-1131; reen. Acts 1987, No. 1018, § 1; Acts 1989 (3rd Ex. Sess.), No. 64, § 1; 1999, No. 1046, § 5; 2011, No. 989, § 70; 2019, No. 315, § 288; 2019, No. 910, § 1622.

Amendments. The 2019 amendment

by No. 315 deleted “and regulations” following “rules” in (a)(3).

The 2019 amendment by No. 910 substituted “Commissioner of Elementary and Secondary Education” for “Commissioner of Education” and “Division of Elementary and Secondary Education” for “Department of Education” in (a)(3).

SUBCHAPTER 14 — STATE AID FOR CONSTRUCTION

SECTION.
6-20-1407. Approval of building plans.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

6-20-1407. Approval of building plans.

- (a) As used in this section:
 - (1) “Public school facility” has the same meaning as defined in § 6-21-803 of the Arkansas Public School Academic Facilities Program Act, § 6-21-801 et seq.; and
 - (2) “Self-funded project” is a project that is one hundred percent (100%) raised and funded by the school district.
- (b) No public school facility shall be built, added to, or renovated except in accordance with the plan finally approved by the Commission

for Arkansas Public School Academic Facilities and Transportation for all projects in which the commission requires its approval.

(c) A copy of approved plans and specifications of all new public school facilities, additions, or renovations shall be filed with and approved by the commission before construction shall be commenced.

(d) The approval process established by the commission shall include review and approval by all appropriate and applicable state agencies, boards, and local officials necessary to meet the standard contained in the Arkansas Public School Academic Facility Manual.

(e)(1) For new public school facilities, a copy of final construction documents shall be submitted to the Design Review Section for review in regard to compliance with the Arkansas-adopted Americans with Disabilities Act Accessibility Guidelines, 42 U.S.C. § 12101 et seq.

(2) All review comments received from the Building Authority Division shall be in writing.

(3) Corrected construction documents shall be received and approved by the division.

(4) No new public school facilities project shall be released for bidding or construction until the requirements of this subsection are met.

(f)(1) For additions or renovations, a copy of final construction documents shall be submitted to the State Fire Marshal Enforcement Section for review in regard to compliance with the Arkansas-adopted Americans with Disabilities Act Accessibility Guidelines, 42 U.S.C. § 12101 et seq.

(2) All review comments received from the State Fire Marshal Enforcement Section shall be in writing.

(3) Corrected construction documents shall be received and approved by the State Fire Marshal Enforcement Section.

(4) No additions or renovation project shall be released for bidding or construction until the requirements of this subsection are met.

(g) Review and approval of plans under this section or otherwise shall not be a guarantee of state financial participation in any public school academic facilities project.

(h)(1) The commission shall approve a self-funded project that complies with state codes and standards.

(2) A school district may submit a self-funded project in the form of an appendix to the existing school district master plan at any time.

History. Acts 1949, No. 230, § 6; A.S.A. 1947, § 80-3506; Acts 1997, No. 1226, § 2; 2005, No. 1426, § 4; 2007, No. 989, § 2; 2009, No. 376, § 41; 2011, No. 1006, § 3; 2019, No. 910, § 6053.

Amendments. The 2019 amendment deleted “of the Department of Finance and Administration” following “Building Authority Division” throughout (e).

SUBCHAPTER 15 — PUBLIC ELEMENTARY AND SECONDARY SCHOOL
INSURANCE ACT

SECTION.

6-20-1503. State Insurance Department
— Powers and duties re-
garding insurance for pub-

SECTION.

lic elementary and second-
ary schools.
6-20-1507. Premium rate and payment.

**6-20-1503. State Insurance Department — Powers and duties
regarding insurance for public elementary and sec-
ondary schools.**

It shall be the power and duty of the State Insurance Department to:

(1) Adopt such rules as may be necessary to provide for the insuring of public elementary and secondary school, education service cooperative, and open-enrollment public charter school property within the State of Arkansas;

(2) Administer the Public School Insurance Trust Fund;

(3) Delegate responsibilities in connection with the administration of this subchapter to the Director of the Risk Management Division and the staff of the department;

(4)(A) Establish and administer a program of insurance to cover buildings and contents of public school districts, education service cooperatives, and open-enrollment public charter schools of this state that have elected to participate in a multischool insurance program.

(B) The programs shall be in accordance with recognized and established insurance practices;

(5) Establish, and from time to time modify, the premium rates to be charged for the various risks;

(6) Specify the form for insurance policies and other forms required for the purposes of this subchapter;

(7)(A) Purchase insurance in compliance with all state purchasing laws from insurance companies authorized to do business in this state in keeping with recognized principles of good risk management.

(B) The director shall prescribe, from time to time, rules and regulations for placing and handling the insurance;

(8) Employ necessary adjusters, engineers, appraisers, and other personnel required in the administration of this subchapter;

(9) Engage in a program of prevention loss control to assist the various public schools in improving and minimizing potential insurance losses;

(10) Perform all additional powers and duties necessary to maintain sound insurance underwriting practices recognized by good risk management;

(11) Periodically review the status of the fund and the adequacy of insurance premium rates and compare these rates with rates for comparable risks for private insurance companies;

(12) Confer with superintendents and boards of directors of school districts, the governing boards of education service cooperatives, and

open-enrollment public charter schools concerning insurance practices of the various school districts, education service cooperatives, and open-enrollment public charter schools;

(13) Promulgate rules and regulations for the administration of the state public school insurance program; and

(14) Perform other duties that will expedite the operation of the Public Elementary and Secondary School Insurance Program.

History. Acts 1973, No. 380, §§ 3, 5, 6; A.S.A. 1947, §§ 80-3511, 80-3513, 80-3514; Acts 2003 (2nd Ex. Sess.), No. 78, § 4; 2007, No. 617, § 15; 2007, No. 738, § 1; 2019, No. 315, § 289.

Amendments. The 2019 amendment deleted “and regulations” following “rules” in (1).

6-20-1507. Premium rate and payment.

(a) The premium rate shall be actuarially sound.

(b) School districts, education service cooperatives, or open-enrollment public charter schools shall make payment of premium when demand is made as scheduled in the contract.

(c)(1) Any school district, education service cooperative, or open-enrollment public charter school which does not pay the premium when due shall be charged a rate of interest at five percent (5%) per annum on all payments due and unpaid on the policy issued.

(2) The State Insurance Department may cancel insurance coverage for school districts, education service cooperatives, or open-enrollment public charter schools that fail to pay the premium due within thirty (30) days.

(3) The department shall give thirty (30) days’ notice before any cancellation for nonpayment.

(d) Rules of the department shall include such items as payment of premiums and other pertinent items with reference to the premium rate, but the rules shall not be more stringent than practices of commercial companies writing similar insurance in Arkansas.

(e) Premiums collected by the Public Elementary and Secondary School Insurance Program shall continue to be subject to any premium tax now or hereafter levied for the support of the firemen’s pension and relief fund.

History. Acts 1973, No. 380, § 9; A.S.A. 1947, § 80-3517; Acts 2003 (2nd Ex. Sess.), No. 78, § 8; 2007, No. 617, § 17; 2019, No. 315, § 290.

Amendments. The 2019 amendment deleted “and regulations” following “rules” twice in (d).

SUBCHAPTER 18 — AUDITS

SECTION.

6-20-1801. Filing of audit reports.

6-20-1802. Fiscal distress for failure to file.

6-20-1803. Questionable audit reports.

SECTION.

6-20-1804. List of ineligible accountants.

6-20-1805. Training requirements for bookkeepers.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

6-20-1801. Filing of audit reports.

(a)(1) Unless a shorter period is prescribed by law or rule, all school districts’ annual audits not conducted by Arkansas Legislative Audit shall be completed and filed with the Division of Elementary and Secondary Education and Arkansas Legislative Audit within nine (9) months following the end of each fiscal year.

(2) At the request of the school district, the division may grant an extension of up to ninety (90) days on the deadline under this subsection.

(b)(1) All school district contracts for audit services with private certified public accountants shall contain a provision requiring completion of the audit and filing of the audit reports by the auditor with the division and Arkansas Legislative Audit within nine (9) months following the end of each fiscal year.

(2) At the request of the school district, the division may grant an extension of up to ninety (90) days on the deadline under this subsection.

(c) Arkansas Legislative Audit shall annually provide the division a list of school districts audited by Arkansas Legislative Audit and update the division on any changes throughout the year.

(d)(1) If the division has identified a school as being in fiscal distress by June 30 of any year, the annual audit of that school district shall be completed and filed with the division and the Legislative Joint Auditing Committee within six (6) months following the end of each fiscal year.

(2) If the Legislative Joint Auditing Committee determines that circumstances warrant, the Legislative Joint Auditing Committee may extend the time to file the audit report of a fiscally distressed school district up to an additional ninety (90) days.

History. Acts 1999, No. 1563, § 1; 2003 (2nd Ex. Sess.), No. 40, § 1; Acts 2003 (2nd Ex. Sess.), No. 63, § 1; 2019, No. 315, § 291; 2019, No. 910, § 1623.

Amendments. The 2019 amendment by No. 315 substituted “rule” for “regulation” in (a)(1).

The 2019 amendment by No. 910 substituted “Division of Elementary and Secondary Education” for “Department of Education” in (a)(1); and substituted “Division of Elementary and Secondary Education” for “department” in (a)(2) and throughout (b) through (d).

6-20-1802. Fiscal distress for failure to file.

(a) Any school district failing to file an audit report required by § 6-20-1801 within the nine-month time period or within the time period under any extension granted by the Division of Elementary and Secondary Education shall automatically be considered by the division to be in fiscal distress.

(b) By January 31 of each year, the division, by certified mail, shall notify any school district failing to file the required audit report that the school district is considered in fiscal distress.

History. Acts 1999, No. 1563, § 2; Acts 2003 (2nd Ex. Sess.), No. 63, § 2; 2019, No. 910, § 1624.

Amendments. The 2019 amendment

substituted "Division of Elementary and Secondary Education" for "Department of Education" in (a); and substituted "division" for "department" in (a) and (b).

6-20-1803. Questionable audit reports.

(a) If the Division of Elementary and Secondary Education or the Legislative Joint Auditing Committee is concerned that a particular audit may be substandard or seriously questionable with respect to applicable professional auditing standards, the division or the Legislative Joint Auditing Committee may file a complaint on the audit report to the Arkansas State Board of Public Accountancy.

(b) The board shall review all audit reports and working papers filed with the board under this subchapter. The board shall determine whether the report is in general conformity with applicable professional standards and state laws and rules and shall take appropriate action.

History. Acts 1999, No. 1563, § 3; 2019, No. 315, § 292; 2019, No. 910, § 1625.

Amendments. The 2019 amendment by No. 315 substituted "rules" for "regulations" in (b).

The 2019 amendment by No. 910 substituted "Division of Elementary and Secondary Education" for "Department of Education" and "division" for "department" in (a).

6-20-1804. List of ineligible accountants.

(a) The Division of Elementary and Secondary Education shall maintain a list of accountants or accounting firms ineligible to conduct school district audits. Accountants or accounting firms placed on the ineligibility list by the division shall be ineligible to conduct school audits for a period determined by the division but which shall not exceed a five-year period from the end of the fiscal year for which the audit report was contracted to be prepared.

(b) Before entering into contracts for audit services, school districts shall inquire with the division which accountants are ineligible to conduct public school audits.

(c) The division may place accountants or accounting firms on the ineligibility list for any of the following reasons:

(1) If, in the opinion of the division or the Legislative Joint Auditing Committee, a school district audit report is not filed within the

nine-month time period or within the time period under any extension granted by the division with the division and Arkansas Legislative Audit as required by § 6-20-1801 because of neglect or fault of the certified public accountant or accounting firm;

(2) If the Quality Review Committee of the Arkansas State Board of Public Accountancy reports to the division and the Legislative Joint Auditing Committee that a school district audit report shows evidence of lack of general conformity with applicable professional standards or state laws and rules or evidence that the report is substandard or seriously questionable; or

(3) Any other compelling reason that the division believes justifies placing the accountant or accounting firm on the ineligibility list.

History. Acts 1999, No. 1563, § 4; Acts 2003 (2nd Ex. Sess.), No. 63, § 3; 2019, No. 315, § 293; 2019, No. 910, § 1626.

Amendments. The 2019 amendment by No. 315 substituted “rules” for “regulations” in (c)(2).

The 2019 amendment by No. 910 substituted “Division of Elementary and Sec-

ondary Education” for “Department of Education” in (a); and substituted “Division of Elementary and Secondary Education” for “department” in (a) twice, in (b), and throughout (c).

6-20-1805. Training requirements for bookkeepers.

(a) The State Board of Education shall establish by rules appropriate training and continuing education requirements for individuals whose job responsibilities include preparing a budget or classifying, recording, or reporting receipts or expenditures of a school or school district.

(b) The state board shall establish rules to assure the proficiency of school employees or other individuals to properly classify, record, and report the fiscal transactions of schools or school districts.

(c) If the state board determines that a school or school district is not properly recording or reporting the fiscal transactions or budget of the school district, the superintendent and school district board of directors may be required to appear before the state board to explain why the school or school district has not complied with the fiscal recording and reporting requirements.

History. Acts 2003 (2nd Ex. Sess.), No. 40, § 2; 2019, No. 315, § 294.

Amendments. The 2019 amendment

deleted “or regulations” following “rules” in (a) and (b).

SUBCHAPTER 19 — ARKANSAS FISCAL ASSESSMENT AND ACCOUNTABILITY PROGRAM

SECTION.	SECTION.
6-20-1902. Purpose.	6-20-1907. Debt issuance.
6-20-1903. Definitions.	6-20-1908. Fiscal distress plan.
6-20-1904. Indicators of fiscal distress.	6-20-1909. Division fiscal distress actions.
6-20-1905. Notification and appeal.	6-20-1910. State board actions.
6-20-1906. Classification of fiscal distress status.	6-20-1911. Rules.

SECTION.

6-20-1912. Fiscal support and monitoring.

6-20-1913. General business manager — Definition.

SECTION.

6-20-1914. Review of financial management practices.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

6-20-1902. Purpose.

The purpose of this subchapter shall be to improve Arkansas public school districts’ financial practices and use of resources by establishing a:

(1) System by which the Division of Elementary and Secondary Education shall review the financial management practices of public school districts, including without limitation identifying best financial management practices;

(2) Program by which the division shall identify, assess, and address public school districts in any phase of fiscal distress that includes without limitation identification of early indicators of fiscal distress and early intervention in public school districts that experience early indicators of fiscal distress; and

(3) System for providing continuous fiscal support and monitoring to public school districts that have been returned to local control after being identified as in fiscal distress.

History. Acts 2003, No. 1467, § 18; 2019, No. 910, § 1627; 2019, No. 929, § 1.

Amendments. The 2019 amendment by No. 910 substituted “Division of El-

ementary and Secondary Education” for “Department of Education”.

The 2019 amendment by No. 929 rewrote the section.

6-20-1903. Definitions.

As used in this subchapter:

(1) “Annexation” means the joining of an affected school district or part of the school district with a receiving district pursuant to § 6-13-1401;

(2) "Consolidation" means the joining of two (2) or more school districts or parts of the districts to create a new single school district pursuant to § 6-13-1401;

(3) [Repealed.]

(4) "Fiscal distress status" means a public school district determined by the Division of Elementary and Secondary Education and classified by the State Board of Education as being placed in fiscal distress status pursuant to this subchapter;

(5) "Fiscal integrity" means to comply with financial management, accounting, auditing, and reporting procedures and facilities management procedures as required by state laws and rules and federal laws and regulations in a forthright and timely manner;

(6) "Reconstitution" means the reorganization of the administrative unit or the governing school district board of directors of a school district, including, but not limited to, the replacement or removal of a current superintendent or the removal or replacement of a current school district board of directors, or both;

(7) "School district" means a public school district created or established pursuant to this title; and

(8) "State board" means the State Board of Education.

History. Acts 2003, No. 1467, § 18; 2019, No. 315, § 295; 2019, No. 910, §§ 1628, 1629. The 2019 amendment by No. 910 repealed (3); and substituted "Division of Elementary and Secondary Education" for "department" in (4).

Amendments. The 2019 amendment by No. 315 inserted "laws and rules" in (5).

6-20-1904. Indicators of fiscal distress.

(a) A school district meeting any of the following criteria may be identified by the Division of Elementary and Secondary Education to be a school district in fiscal distress upon final approval by the State Board of Education:

(1)(A) A declining balance determined to jeopardize the fiscal integrity of a school district.

(B) However, capital outlay expenditures for academic facilities from a school district balance shall not be used to put the school district in fiscal distress;

(2) An act or violation determined to jeopardize the fiscal integrity of a school district, including without limitation:

(A) Material failure to properly maintain school facilities;

(B) Material violation of local, state, or federal fire, health, or safety code provisions or law;

(C) Material violation of local, state, or federal construction code provisions or law;

(D) Material state or federal audit exceptions or violations;

(E) Material failure to provide timely and accurate legally required financial reports to the division, Arkansas Legislative Audit, the General Assembly, or the Internal Revenue Service;

(F) Insufficient funds to cover payroll, salary, employment benefits, or legal tax obligations;

(G) Material failure to meet legally binding minimum teacher salary schedule obligations;

(H) Material failure to comply with state law governing purchasing or bid requirements;

(I) Material default on any school district debt obligation;

(J) Material discrepancies between budgeted and actual school district expenditures;

(K) Material failure to comply with audit requirements;

(L) Material failure to comply with any provision of the Arkansas Code that specifically places a school district in fiscal distress based on noncompliance;

(M) Material failure to comply with § 6-20-1913 or division rules concerning the minimum qualifications for a general business manager; or

(N) Material failure to comply with reporting, debt approval, or other requirements placed on a public school district that has been returned to local control under § 6-20-1912; or

(3) Any other fiscal condition of a school district deemed to have a detrimental negative impact on the continuation of educational services by that school district.

(b)(1) By November 1 of each year, the division shall report to the superintendent of a public school district if the division is aware that the public school district has experienced two (2) or more indicators of fiscal distress, as described in subsection (a) of this section or in division rules, in one (1) school year that the division deems to be at a nonmaterial level but that without intervention could place the public school district in fiscal distress.

(2) By November 1 of each year, the superintendent of a public school district shall report to the division if the superintendent is aware the public school district has experienced two (2) or more indicators of fiscal distress, as described in subsection (a) of this section or in division rules, in one (1) school year that the superintendent deems to be at a nonmaterial level but that without intervention could place the public school district in fiscal distress.

(3)(A) The division and the superintendent shall review all data related to the nonmaterial indicators of fiscal distress.

(B)(i) Within thirty (30) days of the division's determination that the public school district may be experiencing fiscal distress at a nonmaterial level, the division shall provide a notice to the public school district's superintendent and board of directors that:

(a) Describes the nonmaterial indicators of fiscal distress that could jeopardize the fiscal integrity of the public school district if not addressed; and

(b) Identifies the support available from the division to address each nonmaterial indicator of fiscal distress.

(ii) The board of directors of the public school district shall place on the agenda for the next regularly scheduled meeting of the board of

directors of the public school district a discussion of the notice of nonmaterial indicators of fiscal distress.

(4)(A) If a public school district is determined to be experiencing fiscal distress at a nonmaterial level under this subsection, the public school district shall:

(i) Comply with all requirements established by the state board in rules, including without limitation review of the public school district's budget, reporting, and the hiring and termination of staff; and

(ii) Not incur any debt without the prior written approval of the division.

(B) The division may request that Arkansas Legislative Audit conduct an annual audit of a public school district that is determined to be experiencing fiscal distress at a nonmaterial level under this subsection.

History. Acts 2003, No. 1467, § 18; 2007, No. 741, § 1; 2009, No. 798, § 1; 2019, No. 910, §§ 1630-1632; 2019, No. 929, §§ 2, 3.

Amendments. The 2019 amendment by No. 910 substituted "Division of Elementary and Secondary Education" for "Department of Education" in the introductory language of (a); and substituted "division" for "department" throughout the section.

The 2019 amendment by No. 929 added (a)(2)(M) and (a)(2)(N); substituted "November 1" for "August 31" in (b)(1); inserted "as described in subsection (a) of this section or in division rules" in (b)(1) and (b)(2); added "By November 1 of each year" in (b)(2); inserted "public" throughout (b); inserted "public school" preceding "district" near the end of (b)(1) and (b)(2); inserted "of the public school district" twice in (b)(3)(B)(ii); and added (b)(4).

6-20-1905. Notification and appeal.

(a)(1)(A) The Division of Elementary and Secondary Education shall provide written notice, via certified mail, return receipt requested, to the president of the board of directors and the superintendent of each public school district identified as being in fiscal distress.

(B) The division shall provide the notice required under this subdivision (a)(1) on or before June 30 of each year.

(2)(A) At any time after June 30, the division may identify a public school district as being in fiscal distress if the division discovers that a fiscal condition of a public school district negatively impacts the continuation of educational services by the public school district.

(B) The division immediately shall provide the same notice required under subdivision (a)(1)(A) of this section to the public school district identified under this subdivision (a)(2).

(b) Any school district identified in fiscal distress status may appeal to the State Board of Education by filing a written appeal with the office of the Commissioner of Elementary and Secondary Education by certified mail, return receipt requested, within thirty (30) days of receipt of notice of identified fiscal distress status from the division.

(c) The state board shall hear the appeal within sixty (60) days of receipt of the written notice of appeal from the school district.

(d) The written appeal shall state in clear terms the reason why the school district should not be classified as in fiscal distress.

(e) Notwithstanding any appeal rights in this subchapter, no appeal shall stay the division's authority to take action to protect the fiscal integrity of any school district identified as in fiscal distress.

(f) The decision of the state board shall be a final order, and there is no further right of appeal except that the school district may appeal to Pulaski County Circuit Court pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

History. Acts 2003, No. 1467, § 18; 2007, No. 741, § 2; 2009, No. 1469, § 11; 2019, No. 910, § 1633; 2019, No. 929, § 4.

Amendments. The 2019 amendment by No. 910 substituted "Division of Elementary and Secondary Education" for "Department of Education" and "division" for "department" throughout the section; and substituted "Commissioner of Elementary and Secondary Education" for "Commissioner of Education" in (b).

The 2019 amendment by No. 929 inserted "public" throughout (a); deleted the (a)(1)(A)(i) designation; deleted "school district" preceding "board" in (a)(1)(A); redesignated (a)(1)(A)(ii), (a)(1)(B)(i), and (a)(1)(B)(ii) as (a)(1)(B), (a)(2)(A), and (a)(2)(B); substituted "June 30" for "March 30" in (a)(1)(B) and (a)(2)(A); and updated internal references.

6-20-1906. Classification of fiscal distress status.

(a) Those school districts identified by the Division of Elementary and Secondary Education as being in fiscal distress shall be classified as school districts in fiscal distress upon final determination by the State Board of Education.

(b) Any school district classified as in fiscal distress shall be required to publish at least one (1) time for two (2) consecutive weeks in a newspaper of general circulation in the school district the school district's classification as a school district in fiscal distress and the reasons why the school district was classified as being in fiscal distress.

(c) The provisions of subsections (a) and (b) of this section are effective after the school district's appeal rights have been exhausted.

History. Acts 2003, No. 1467, § 18; 2019, No. 910, § 1634.

substituted "Division of Elementary and Secondary Education" for "Department of Education" in (a).

Amendments. The 2019 amendment

6-20-1907. Debt issuance.

No school district identified in fiscal distress may incur any debt without the prior written approval of the Division of Elementary and Secondary Education.

History. Acts 2003, No. 1467, § 18; 2019, No. 910, § 1635.

substituted "Division of Elementary and Secondary Education" for "Department of Education".

Amendments. The 2019 amendment

6-20-1908. Fiscal distress plan.

(a) Those school districts identified by the Division of Elementary and Secondary Education as being in fiscal distress shall file with the division within ten (10) days after the final classification by the State

Board of Education a written fiscal distress improvement plan to address any area in which the school district is experiencing fiscal distress as identified by the division.

(b) Each school district shall seek and obtain approval of its plan from the division and shall describe how the school district will remedy those areas in which the school district is experiencing fiscal distress and shall establish the time period by which the school district will remedy all criteria which placed the school district in fiscal distress status.

(c) A public school district in fiscal distress may only petition the state board for removal from fiscal distress status after the division has certified in writing that the public school district has corrected all criteria for being classified as in fiscal distress, has not experienced any additional indicators of fiscal distress, and has complied with all division recommendations and requirements for removal from fiscal distress status.

(d) Except under § 6-20-1910(e), a school district shall not be allowed to remain in fiscal distress status for more than five (5) consecutive school years from the date that the school district was classified as being in fiscal distress status.

(e) Any school district classified as being in fiscal distress status shall be required to receive on-site technical evaluation and assistance from the division.

(f)(1) The division shall evaluate and make written recommendations to the district superintendent regarding staffing of the school district and fiscal practices of the school district.

(2) The written recommendations of the division shall be binding on the school district, the superintendent, and the school district board of directors.

(g) Every six (6) months, the division shall submit a written evaluation on the status of each school district in fiscal distress to the state board.

(h)(1) The division may petition the state board at any time for the consolidation, annexation, or reconstitution of a school district in fiscal distress or take other appropriate action as allowed by this subchapter in order to secure and protect the best interest of the educational resources of the state or to provide for the best interests of students in the school district.

(2) The state board may approve the petition or take other appropriate action as allowed by this subchapter.

(i) Except under § 6-20-1910(e), the state board shall consolidate, annex, or reconstitute any school district that fails to remove itself from the classification of a school district in fiscal distress within five (5) consecutive school years of classification of fiscal distress status unless the state board, at its discretion, issues a written finding supported by a majority of the state board, explaining in detail that the school district could not remove itself from fiscal distress due to impossibility caused by external forces beyond the school district's control.

History. Acts 2003, No. 1467, § 18; 2013, No. 600, §§ 13, 14; 2017, No. 745, §§ 28, 29; 2019, No. 910, § 1636; 2019, No. 929, § 5.

Amendments. The 2019 amendment by No. 910 substituted "Division of Elementary and Secondary Education" for "Department of Education" in (a); and

substituted "division" for "department" throughout the section.

The 2019 amendment by No. 929, in (c), inserted "public" twice, inserted "has not experienced any additional indicators of fiscal distress", and added "status" at the end.

6-20-1909. Division fiscal distress actions.

(a) In addressing public school districts in fiscal distress, the Commissioner of Elementary and Secondary Education may:

(1) Remove permanently, reassign, or suspend on a temporary basis the superintendent of the public school district and:

(A) Appoint an individual in place of the superintendent to administratively operate the public school district under the supervision and approval of the commissioner;

(B) Compensate nondivision agents operating the public school district from public school district funding; and

(C) Authorize an individual appointed under subdivision (a)(1)(A) of this section to remove, replace, reassign, or suspend public school district personnel in accordance with state law;

(2) Suspend or remove some or all of the current board of directors and call for the election of a new board of directors for the public school district, in which case the public school district shall reimburse the county board of election commissioners for election costs as otherwise recognized by law;

(3)(A) Suspend on a temporary basis some or all of the powers and duties granted to the current public school district board of directors under § 6-13-620 or any other law but allow the public school district board of directors to continue to operate under the direction and approval of the commissioner.

(B) The State Board of Education shall define the powers and duties of the public school district board of directors while the public school district board of directors is operating under the direction and approval of the commissioner under subdivision (a)(3)(A) of this section.

(C) The public school district board of directors shall act in an advisory capacity to the commissioner regarding all powers and duties granted under § 6-13-620 that are not defined under subdivision (a)(3)(B) of this section;

(4) Require the public school district to operate without a board of directors under the supervision of the local superintendent or an individual or panel appointed by the commissioner;

(5) Waive the application of Arkansas law or the corresponding State Board of Education rules, with the exception of:

(A) The Teacher Fair Dismissal Act of 1983, § 6-17-1501 et seq.;

(B) The Public School Employee Fair Hearing Act, § 6-17-1701 et seq.;

- (C) Special education programs as provided in this title;
- (D) Criminal background checks for employees as provided in this title; and
- (E) Health and safety codes as established by the State Board of Education and local governmental entities;
- (6) Petition the State Board of Education for the annexation, consolidation, or reconstitution of the public school district;
- (7) In the absence of a public school district board of directors, assume all authority of the board of directors as designated by the State Board of Education as may be necessary for the day-to-day governance of the public school district;
- (8) Require reassignment of some or all of the administrative, instructional, or support staff of a public school district;
- (9) Require reorganization, closure, or dissolution of one (1) or more of the public schools within the public school district;
- (10)(A) Return the administration of the public school district to the former board of directors or to a newly elected board of directors if:
 - (i) The Division of Elementary and Secondary Education certifies in writing to the State Board of Education and to the public school district that the public school district has corrected all issues that caused the classification of fiscal distress and the public school district has not experienced any additional indicators of fiscal distress; and
 - (ii) The State Board of Education determines the public school district has corrected all issues that caused the classification of fiscal distress.
- (B) If the commissioner calls for an election of a new public school district board of directors, the public school district shall reimburse the county board of election commissioners for election costs as otherwise required by law;
- (11) Otherwise reconstitute the public school district; or
- (12) Take any other action allowed by law that is deemed necessary to assist a public school district in removing the classification of fiscal distress.
- (b) The division may impose various reporting requirements on the school district.
- (c) The division shall monitor the fiscal operations and accounts of the school district.
- (d) The division shall require school district staff and employees to obtain fiscal instruction or training in areas of fiscal concern for the school district.

History. Acts 2003, No. 1467, § 18; 2013, No. 600, § 15; 2017, No. 275, § 5; 2019, No. 910, §§ 1637-1640; 2019, No. 929, § 6.

Amendments. The 2019 amendment by No. 910 substituted “Commissioner of

Elementary and Secondary Education” for “Commissioner of Education” in the introductory language of (a); substituted “non-division” for “nondepartment” in (a)(1)(B); substituted “Division of Elementary and Secondary Education” for “Department of

Education” in (a)(7)(A)(i) [now (a)(10)(A)(i)]; and substituted “division” for “department” in (b), (c), and (d).

The 2019 amendment by No. 929 inserted “public” throughout (a); added (a)(1)(C); inserted (a)(3) and redesignated the remaining subdivisions accordingly;

added (a)(5)(C) through (a)(5)(E); inserted (a)(8) and (a)(9) and redesignated the remaining subdivisions accordingly; and added “and the public school district has not experienced any additional indicators of fiscal distress” in (a)(10)(A)(i).

6-20-1910. State board actions.

(a) After a public hearing, the State Board of Education shall consolidate, annex, or reconstitute the school district in fiscal distress to another school district or school districts upon a majority vote of a quorum of the members of the state board as permitted or required by this subchapter.

(b) The state board has exclusive jurisdiction to determine the boundary lines of the receiving or resulting school district and to allocate assets and liabilities of the school district.

(c) The decision of the state board shall be final with no further right of appeal except that a school district may appeal to Pulaski County Circuit Court pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(d) [Repealed.]

(e)(1) If, by the end of the fifth school year following the school district’s classification of fiscal distress status, the school district in fiscal distress has not corrected all issues that caused the classification of fiscal distress, the state board, after a public hearing, shall consolidate, annex, or reconstitute the school district under this section.

(2) The state board may grant additional time for a public school or school district to remove itself from fiscal distress by issuing a written finding supported by a majority of the state board explaining in detail that the public school or school district could not remove itself from fiscal distress during the relevant time period due to impossibility caused by external forces beyond the control of the public school or school district.

(f) Nothing in this section shall be construed to prevent the Division of Elementary and Secondary Education or the state board from taking any of the actions listed in § 6-20-1909 or this section at any time to address a school district in fiscal distress.

History. Acts 2003, No. 1467, § 18; 2013, No. 600, § 16; 2017, No. 745, § 30; 2019, No. 910, §§ 1641-1644; 2019, No. 929, § 7.

A.C.R.C. Notes. Acts 2019, No. 929, § 7 repeal of (d) supersedes the amendments made to (d) by Acts 2019, No. 910, §§ 1642-1643.

Amendments. The 2019 amendment by No. 910 substituted “Commissioner of

Elementary and Secondary Education” for “Commissioner of Education” in the introductory language of (d); substituted “Division of Elementary and Secondary Education” for “Department of Education” in (d)(2)(C); and substituted “division” for “department” in (d)(3)(A)(ii)(a) and (f).

The 2019 amendment by No. 929 repealed (d).

6-20-1911. Rules.

(a) The Division of Elementary and Secondary Education shall promulgate rules as necessary to identify, evaluate, assist, and address school districts in fiscal distress.

(b) The division may promulgate rules as necessary to administer this subchapter.

History. Acts 2003, No. 1467, § 18; 2019, No. 315, § 296; 2019, No. 910, § 1645.

Amendments. The 2019 amendment by No. 315 deleted “and regulations” following “rules” in the section heading and in (a) and (b).

The 2019 amendment by No. 910 substituted “Division of Elementary and Secondary Education” for “Department of Education” in (a); and substituted “division” for “department” in (b).

6-20-1912. Fiscal support and monitoring.

(a) When a public school district is returned to local control or removed from fiscal distress status, the Division of Elementary and Secondary Education:

(1) Shall monitor the fiscal operations and accounts of the public school district for a period of three (3) years;

(2) Shall provide support to the public school district regarding maintaining fiscal integrity and best financial management practices; and

(3) May impose various reporting requirements on the public school district.

(b) A public school district that is returned to local control shall:

(1) Comply with all monitoring and reporting requirements established by the division and the State Board of Education, including without limitation review of the public school district’s budget and approval for staffing;

(2) Not incur any debt without prior written approval of the division; and

(3) Use Arkansas Legislative Audit to conduct an annual audit.

History. Acts 2019, No. 929, § 8.

6-20-1913. General business manager — Definition.

(a) As used in this subchapter, “general business manager” means a chief financial officer or business manager, however the position is titled, who:

(1) Is responsible for the fiscal operations of a public school district; and

(2) Performs duties under the direction of a superintendent of a public school district.

(b)(1) A general business manager for a public school district shall meet the minimum qualifications established by Division of Elementary and Secondary Education rules.

(2) These division rules shall ensure minimum qualifications that support the implementation of best financial management practices for public school districts.

(c) A general business manager who was hired before July 31, 2007, is exempt from subsection (b) of this section.

History. Acts 2019, No. 929, § 8.

6-20-1914. Review of financial management practices.

(a) The Division of Elementary and Secondary Education shall implement a system for reviewing the financial management practices of public school districts to determine the support that is needed by public school districts.

(b) The system established under subsection (a) of this section shall address without limitation a public school district's:

- (1) Use of resources;
- (2) Financial accountability; and
- (3) Personnel systems and benefits management.

History. Acts 2019, No. 929, § 8.

SUBCHAPTER 20 — TRACKING AND ACCOUNTING OF INTERSCHOOL ATHLETIC PROGRAM FUNDS

SECTION.

6-20-2002. Definitions.

6-20-2003. Reporting by local school districts.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019".

6-20-2002. Definitions.

As used in this subchapter:

(1) "Athletic expenditures" means all direct expenses related to interschool athletic programs, including without limitation:

(A) The proportion of salaries or supplemental pay for staff for or related to interschool athletic programs or organized physical activity courses as provided under § 6-16-137, or both;

(B) All fringe benefits, including without limitation medical and dental insurance, workers' compensation, pension plans, and any other costs associated with employment of staff for interschool athletic programs;

(C) Travel, including bus-related operation and maintenance, to and from any interschool athletic program event for students, faculty, spirit groups, band, or patrons of the school district;

(D) Equipment;

(E) Meals;

(F) Supplies; and

(G) Medical expenses;

(2) "Classroom teacher" means an individual who is required to hold a teaching license from the Division of Elementary and Secondary Education and who is engaged directly in instruction with students in a classroom setting for more than seventy percent (70%) of the individual's contracted time;

(3) "Interschool athletic program" means:

(A) Any athletic program that is organized primarily for the purpose of competing with other schools, public or private; or

(B) Any athletic program that is subject to regulation by the Arkansas Activities Association; and

(4) "State funds" means all money derived from state revenues, specifically including, but not limited to, distributions from the Division of Elementary and Secondary Education Public School Fund Account and ad valorem property taxes distributed to a public school or school district.

History. Acts 2003 (2nd Ex. Sess.), No. 52, § 1; 2005, No. 2151, § 19; 2005, No. 2256, § 1; 2007, No. 255, § 1; 2013, No. 1358, § 1; 2019, No. 910, §§ 1646, 1647.

Amendments. The 2019 amendment substituted "Division of Elementary and Secondary Education" for "Department of Education" in (2) and (4).

6-20-2003. Reporting by local school districts.

(a) During the appropriate Arkansas Public School Computer Network reporting cycle each year, a school district shall submit appropriate data to the Division of Elementary and Secondary Education documenting the school district's total athletic expenditures paid from state funds.

(b) Annually, each school district shall submit as part of the budget of expenditures and receipts required under § 6-20-2202 a budget for the total athletic expenditures to be paid from state funds for the budgeted year.

History. Acts 2003 (2nd Ex. Sess.), No. 52, § 1; 2007, No. 255, § 2; 2013, No. 1358, § 2; 2019, No. 910, § 1648.

Amendments. The 2019 amendment substituted "Division of Elementary and Secondary Education" for "Department of

Education” in (a).

SUBCHAPTER 21 — TRACKING AND ACCOUNTING OF INTERSCHOOL SCHOLASTIC ACTIVITY FUNDS

SECTION.

6-20-2102. Definitions.

6-20-2103. Reporting by school districts.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

6-20-2102. Definitions.

As used in this subchapter:

(1) “Classroom teacher” means an individual who is required to hold a teaching license from the Division of Elementary and Secondary Education and who is engaged directly in instruction with students in a classroom setting for more than seventy percent (70%) of the individual’s contracted time;

(2) “Interschool scholastic activities” means:

(A) Any interschool activity program that is outside the regular curriculum, excluding interschool athletic programs as defined by § 6-20-2002, which is organized primarily for the purpose of competing with other schools, public or private; or

(B) Any program or activity, excluding interschool athletic programs as defined by § 6-20-2002, which is subject to regulation by the Arkansas Activities Association;

(3) “Interschool scholastic activity expenditures” means all direct expenses related to interschool scholastic activities, including without limitation:

(A) Salaries or supplemental pay for staff for interschool scholastic activities, excluding salaries received for duties as a classroom teacher;

(B) All fringe benefits, including, but not limited to, medical and dental insurance, workers’ compensation, pension plans, and any other costs associated with employment of staff for interschool scholastic activities;

- (C) Travel, including bus-related operation and maintenance;
- (D) Equipment;
- (E) Meals;
- (F) Supplies; and
- (G) Medical expenses; and

(4) “State funds” means all money derived from state revenues, specifically including, but not limited to, distributions from the Division of Elementary and Secondary Education Public School Fund Account and ad valorem property taxes distributed to a public school or school district.

History. Acts 2003 (2nd Ex. Sess.), No. 52, § 2; 2005, No. 2256, § 2; 2013, No. 1358, § 4; 2019, No. 910, §§ 1649, 1650. substituted “Division of Elementary and Secondary Education” for “Department of Education” in (1) and (4).
Amendments. The 2019 amendment

6-20-2103. Reporting by school districts.

- (a) During the appropriate Arkansas Public School Computer Network reporting cycle each year, a school district shall submit data to the Division of Elementary and Secondary Education documenting the school district’s total interschool scholastic activity expenditures paid from state funds.
- (b) Annually, each school district shall submit as part of the budget of expenditures and receipts required under § 6-20-2202 a budget for the total interschool scholastic activity expenditures to be paid from state funds for the budgeted year.

History. Acts 2003 (2nd Ex. Sess.), No. 52, § 2; 2013, No. 1358, § 5; 2019, No. 910, § 1651. substituted “Division of Elementary and Secondary Education” for “Department of Education” in (a).
Amendments. The 2019 amendment

SUBCHAPTER 22 — ARKANSAS EDUCATIONAL FINANCIAL ACCOUNTING AND REPORTING ACT OF 2004

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|---|---|
| SECTION. | SECTION. |
| 6-20-2202. Budget and expenditure report. | 6-20-2206. Miscellaneous provisions. |
| 6-20-2203. Uniform budget and accounting system required. | 6-20-2207. Rulemaking authority. |
| 6-20-2204. Required training. | 6-20-2208. Monitoring of expenditures. |
| | 6-20-2210. Limitation on fund balances — Definitions. |

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the

fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

6-20-2202. Budget and expenditure report.

(a)(1) The board of directors of each school district, open-enrollment public charter school, and education service cooperative annually shall prepare a budget of expenditures and receipts that shall be filed with the Division of Elementary and Secondary Education by September 30 of each year under this subchapter.

(2)(A) Each budget shall be approved by the board of directors of each school district, open-enrollment public charter school, and education service cooperative at a legally held meeting and shall be signed by the president of the board of directors and the ex officio financial secretary of each school district, open-enrollment public charter school, and education service cooperative.

(B) The budget shall contain the information and be prepared in an electronic format prescribed by the Division of Elementary and Secondary Education governing financial accounting for Arkansas school districts, open-enrollment public charter schools, and education service cooperatives.

(3)(A) The electronic format required by the Division of Elementary and Secondary Education shall be available for completion by school districts, open-enrollment public charter schools, and education service cooperatives not later than September 15 of each year.

(B) The Division of Elementary and Secondary Education shall declare when the electronic format is accessible to school districts, open-enrollment public charter schools, and education service cooperatives via the Commissioner of Elementary and Secondary Education memo.

(b)(1)(A) Warrants or checks of a school district, open-enrollment public charter school, or education service cooperative issued after the date required by subsection (a) of this section shall be invalid unless a budget has been filed as required by this subchapter and in compliance with appropriate rules.

(B) The ex officio financial secretary of a school district, open-enrollment public charter school, or education service cooperative and his or her surety shall be liable for any warrants or checks countersigned after the date required by subsection (a) of this section if a budget has not been filed.

(2) After the Division of Elementary and Secondary Education has met all deadlines for providing information to school districts, open-enrollment public charter schools, or education service cooperatives, distribution of all grants and aids from the state for which the school district, open-enrollment public charter school, or education service cooperative may be eligible shall be suspended until the requirements

of this subchapter are met by the school districts, open-enrollment public charter schools, or education service cooperatives.

(c)(1)(A) School district, open-enrollment public charter school, and education service cooperative budgets filed pursuant to this section shall be reviewed by the auditors of the financial accountability office of the Division of Elementary and Secondary Education to determine whether the requirements of state law and the rules of the State Board of Education regarding the use of school, open-enrollment public charter school, and education service cooperative funds and expenditure requirements are being met.

(B)(i) The review and the determination shall be completed not later than February 15 of each year.

(ii) If the auditors of the financial accountability office determine that the financial records are deficient, then the school district, open-enrollment public charter school, or education service cooperative shall be notified and shall have thirty (30) days to respond before suspension of the grants and aids.

(2) Upon approval by the auditors, copies of the approved budget shall be filed with the school district, the open-enrollment public charter school, the education service cooperative, the county treasurer if serving as school treasurer, and the Division of Elementary and Secondary Education.

(d)(1)(A) The ex officio financial secretary of each school district, open-enrollment public charter school, and education service cooperative shall keep a record of the following information in a format required by the Division of Elementary and Secondary Education:

(i) The daily expenditures and receipts of the school district, open-enrollment public charter school, or education service cooperative; and

(ii)(a) Information on fund balances maintained by the school district, open-enrollment public charter school, or education service cooperative, including, but not limited to, the:

(1) Sources of the funds maintained as fund balances, to the extent practicable;

(2) Reasons for maintaining, instead of spending, the fund balances;

(3)(A) Amount of funds transferred between various funds during the past year.

(B) The school district, open-enrollment public charter school, and education service cooperative shall identify the funds transferred between and the amount of funds transferred; and

(4) Amount of fund balances dedicated for the construction, maintenance, or repair of academic or athletic facilities.

(b) The Division of Elementary and Secondary Education shall promulgate rules that require reporting of fund balances sufficient to verify whether funds allocated for educational purposes, including, but not limited to, student academic needs and the maintenance and operation of public school district facilities, are used for their in-

tended purposes or retained by the school district in its fund balances.

(B)(i) An annual report summarizing the information required in subdivision (d)(1)(A) of this section in a format required by the Division of Elementary and Secondary Education shall be filed by August 31 of each year with the Division of Elementary and Secondary Education.

(ii) A final close must be performed in each school district's or open-enrollment public charter school's or education service cooperative's applicable general ledger database no later than September 10 of each year.

(iii) The Arkansas Public School Computer Network shall ensure that proper controls are in place to prohibit changes to the aforementioned data after the final close has been performed.

(2) If the auditors of the financial accountability office of the Division of Elementary and Secondary Education determine that the financial records of any school district, open-enrollment public charter school, or education service cooperative are not properly maintained or that the financial affairs of the school district, open-enrollment public charter school, or education service cooperative are not administered in accordance with state law or state board rules, grants and aids from the state to which the school district, open-enrollment public charter school, or education service cooperative may be entitled shall be withheld until it is determined that the fiscal records of the school district, open-enrollment public charter school, or education service cooperative are in order or that the financial affairs are being properly administered as established by statute or by rule promulgated by the state board, provided that the Division of Elementary and Secondary Education has met all deadlines for providing information to school districts, open-enrollment public charter schools, or education service cooperatives.

(e)(1) The Division of Elementary and Secondary Education may withhold state aid from any school district, open-enrollment public charter school, or education service cooperative that fails to file its budget or any other required report with the Division of Elementary and Secondary Education by the deadline established by statute or by rule promulgated by the state board or by the due dates established by the Division of Elementary and Secondary Education pursuant to subdivision (e)(2) of this section, provided that the Division of Elementary and Secondary Education has met all deadlines for providing pertinent information to school districts, open-enrollment public charter schools, or education service cooperatives.

(2) The Division of Elementary and Secondary Education shall submit a list of all required financial accountability reports along with due dates to each school district, open-enrollment public charter school, and education service cooperative by July 1 of each year.

(f) The state board shall promulgate the necessary rules to fully implement this section.

(g)(1) The Treasurer of State shall withhold the monthly distribution of county aid provided under § 19-5-602(c) from any county whose

county official who is the preparer of the tax books fails to provide by March 15 of each calendar year information concerning the annual abstract of assessment that reflects the aggregate value of the real and personal property for each school district located wholly or in part in the county as follows:

(A) If the county is capable of providing the information electronically, then the information shall be provided to both the Division of Elementary and Secondary Education and the Assessment Coordination Division; and

(B) If the county is not capable of providing the information electronically, then the information shall be provided only to the Assessment Coordination Division.

(2) The information transmitted to the Division of Elementary and Secondary Education and the Assessment Coordination Division shall also include:

(A) The previous calendar year's property assessment that will be used for ad valorem tax collections in the current year; and

(B) The millage rates, which shall be listed by the type of millage, levied against that property assessment.

History. Acts 2003 (2nd Ex. Sess.), No. 61, § 1; 2005, No. 77, §§ 1, 2; 2005, No. 730, § 1; 2006 (1st Ex. Sess.), No. 26, § 1; 2006 (1st Ex. Sess.), No. 27, § 1; 2006 (1st Ex. Sess.), No. 28, § 1; 2006 (1st Ex. Sess.), No. 29, § 1; 2007, No. 617, § 22; 2007, No. 858, § 1; 2009, No. 1469, §§ 12, 13; 2011, No. 989, § 72; 2017, No. 741, § 5; 2019, No. 910, § 1652.

Amendments. The 2019 amendment

substituted "Division of Elementary and Secondary Education" for "Department of Education" throughout the section; substituted "Commissioner of Elementary and Secondary Education" for "Commissioner of Education" in (a)(3)(B); and substituted "Assessment Coordination Division" for "Assessment Coordination Department" throughout (g).

6-20-2203. Uniform budget and accounting system required.

(a)(1) The State Board of Education shall adopt by rule a uniform budget and accounting system that shall be known as the "Arkansas Educational Financial Accounting and Reporting System".

(2) This system shall establish and implement the process and procedures for financial reporting as required by this subchapter for school districts, education service cooperatives, and open-enrollment public charter schools.

(3)(A) Pursuant to § 6-20-2207, the Division of Elementary and Secondary Education shall establish and implement a uniform chart of accounts known as the "Arkansas Financial Accounting Handbook" or the "Arkansas Handbook".

(B) The Arkansas Handbook shall be incorporated by reference into the rules governing the system.

(C) However, the Arkansas Handbook shall be exempt from the rulemaking process and procedures required pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(4) The rules shall be developed by the state board in cooperation with the division, representatives from the Arkansas Association of

Educational Administrators, the Arkansas Association of School Business Officials, the Arkansas Education Association, the education service cooperatives, and the Legislative Joint Auditing Committee.

(b) To the extent necessary to comply with federal law, the terms and definitions contained in the Arkansas Handbook shall initially comply with Financial Accounting for Local and State School Systems, 2003 Edition (NCES 2004-318), and may thereafter be revised by the division as necessary to remain consistent and shall be used for valid comparisons of expenditures of schools, school districts, open-enrollment public charter schools, and education service cooperatives.

(c) In addition, the rules or the Arkansas Handbook shall include, but not be limited to:

(1) Categories to allow for the gathering of data on separate functions and programs;

(2)(A) Categories and descriptions of expenditures that each public school or school district shall report on its annual school performance report authorized by the School Performance Report Act, § 6-15-1401 et seq.

(B) The reported expenditures shall include, but not be limited to, the following categories:

- (i) Total expenditures;
- (ii) Instructional expenditures;
- (iii) Administrative expenditures;
- (iv) Extracurricular expenditures;
- (v) Capital expenditures;
- (vi) Debt service expenditures; and
- (vii) Expenditures of court-ordered desegregation funding;

(3) Categories and descriptions of public school and school district expenditures that allow for the gathering of data on separate functions and programs provided by law, including without limitation the following expenditures:

- (A) Athletic expenditures;
- (B) Student transportation expenditures;
- (C) School district level administrative costs;
- (D) School level administrative costs;
- (E) Instructional facilitators;
- (F) Supervisory aides;
- (G) Substitutes;
- (H) Property insurance; and
- (I) Expenditures of court-ordered desegregation funding;

(4) Categories and descriptions of public school and school district expenditures that allow for the tracking of expenditures from the following sources of revenue:

- (A) Student growth;
- (B) Declining enrollment;
- (C) Special education high-cost occurrences;
- (D) Special education services;
- (E) Technology grants;

- (F) Debt service funding supplement;
- (G) General facilities funding;
- (H) Distance learning;
- (I) Gifted and talented; and
- (J) Court-ordered desegregation funding;
- (5) Categories and descriptions of student management coding, including without limitation:
 - (A) Number of students transported; and
 - (B) Daily route mileage;
- (6) Categories and descriptions of restricted fund balances that provide documentation of the purpose for the restriction;
- (7) Categories and descriptions of expenditures that each education service cooperative shall report on its annual report authorized by law; and
- (8) Rules relating to computing error rates in coding and reporting financial information under the system and penalties to focus on areas needing improvement.
- (d) The Arkansas Handbook shall contain appropriate format and codes for expenditures for education service cooperatives.
- (e) The division shall have the authority to analyze and inspect the financial records of any school, open-enrollment public charter school, school district, or education service cooperative in order to verify that a school, school district, or education service cooperative is correctly and accurately reporting expenditures.
- (f) By February 15 of each year, the division shall submit a report to the state board, the Governor, the Senate Committee on Education, and the House Committee on Education concerning public school and public school district expenditures required by law.

History. Acts 2003 (2nd Ex. Sess.), No. 61, § 1; 2005, No. 730, § 1; 2007, No. 1006, § 1; 2011, No. 701, §§ 3-5; 2019, No. 757, § 45; 2019, No. 910, §§ 1653-1661.

Amendments. The 2019 amendment by No. 757 deleted former (c)(3)(B) and redesignated former (c)(3)(A) as (c)(3); deleted former (c)(4)(B) and redesignated former (c)(4)(A) as (c)(4); deleted former (c)(5)(B) and redesignated former (c)(5)(A)

as (c)(5); deleted (c)(6)(B) and redesignated former (c)(6)(A) as (c)(6); and deleted (c)(8)(B) and redesignated former (c)(8)(A) as (c)(8).

The 2019 amendment by No. 910 substituted "Division of Elementary and Secondary Education" for "Department of Education" in (a)(3)(A); and substituted "division" for "department" throughout the section.

6-20-2204. Required training.

(a)(1)(A) The Division of Elementary and Secondary Education shall establish two (2) tiers of required training.

(B) Both tiers of required training shall apply to public school districts, open-enrollment public charter schools, and education service cooperatives.

(C)(i) At a minimum, two (2) persons per educational entity are required to attend an initial and annual Tier I training:

(a) The school district superintendent or the education service cooperative director or the open-enrollment public charter school director; and

(b) A person whose job responsibilities include preparing the budget or overall accounting responsibility.

(ii) The two (2) persons per educational entity required to attend the initial and annual Tier I training shall each obtain twelve (12) hours of initial training and instruction necessary to demonstrate basic proficiency as determined by the division, including, but not limited to:

(a) School laws of Arkansas;

(b) Laws and rules governing the expenditure of public education funds, fiscal accountability, and school finance;

(c) Ethics; and

(d) Financial accounting and reporting of schools, school districts, open-enrollment public charter schools, and education service cooperative expenditures.

(2)(A) Each year thereafter, the school district superintendent, the education service cooperative executive director, or open-enrollment public charter school director and the person whose job responsibilities include preparing the budget or overall accounting responsibility who have already attended the initial and Tier I training shall obtain by December 31 of each calendar year a minimum of two (2) hours of annual training and instruction as required by the division in order to maintain basic proficiency in the topics described in subdivision (a)(1) of this section.

(B) Additional annual training may be required by the division for the school district superintendent, the education service cooperative executive director, or open-enrollment public charter school director and the person whose job responsibilities include preparing the budget or overall accounting responsibility based on repetitive or flagrant audit findings or the identification of multiple indicators of fiscal distress.

(3)(A) The instruction may be provided by an institution of higher education in this state, from instruction sponsored by the division, by an in-service training program conducted by the Arkansas Association of School Business Officials, or from another provider.

(B) To satisfy the training and requirements under this subsection, any provider other than the division shall apply for and receive preapproval by the division as to the form and content of the training and instruction before they are offered as training and instruction to comply with the provisions of this subsection.

(4)(A) If a person fails to obtain the required Tier I training by the end of the calendar year and fails to cure the deficiency by March 1 of the following calendar year without filing a request for extension of time as determined from the records of the division, the division shall immediately notify the superintendent of the employing school district, the director of the open-enrollment public charter school, or the

executive director of the education service cooperative by certified mail, return receipt requested, with a copy to the state board president.

(B)(i) The superintendent of the school district, the director of the open-enrollment public charter school, or the education service cooperative executive director shall notify the person by certified mail, return receipt requested, and the person shall be unable to continue in his or her position from the date of receipt of notification by the superintendent of the school district, the director of the open-enrollment public charter school, or the education service cooperative executive director.

(ii) Any person receiving notice that he or she shall be unable to continue in his or her position solely because of his or her failure to obtain the required training may request a hearing before the State Board of Education before his or her permanent dismissal.

(5) If the person fails to obtain all required training by December 31, this failure shall constitute one (1) citation against the school district or the open-enrollment public charter school as measured by the Standards for Accreditation of Arkansas Public Schools and School Districts issued by the division or an admonishment to the education service cooperative by the division.

(6)(A) If the person is unable to obtain the required training because of military service or illness as verified by a written sworn statement of the person's attending physician, the division shall grant an extension permitting the person additional time to obtain the required training.

(B) The issuance of an extension shall not constitute a citation against the school district as measured by the Standards for Accreditation of Arkansas Public Schools and School Districts issued by the division or the education service cooperative and shall not operate to remove the person from his or her job.

(b)(1) Tier II training shall include, but not be limited to, employees who do not make decisions about selecting codes or who have a limited number of codes that they can use.

(2) Tier II training shall be developed by the division in cooperation with representatives from the Arkansas Association of Educational Administrators, the Arkansas Association of School Business Officials, the Arkansas Education Association, the Legislative Joint Auditing Committee, and the education service cooperatives.

(3)(A) The training shall be annual and shall be a minimum of two (2) hours.

(B) Additional annual training may be required by the division for employees who do not make decisions about selecting codes or who have a limited number of codes that they can use based on repetitive or flagrant audit findings or the identification of multiple indicators of fiscal distress.

(4) School districts shall be responsible for providing the training to these employees.

(5) School district trainers are required to attend Tier I training and annual updates as required by the division under this subsection and subsection (a) of this section.

(c)(1) Each school district, open-enrollment public charter school, or education service cooperative shall maintain files and records indicating all employees who are required to obtain and who have completed Tier II training.

(2) Each school district superintendent, open-enrollment public charter school director, or education service cooperative executive director shall provide the division an assurance statement regarding the completion of Tier II training by the required individuals.

(d) The state board shall modify the Standards for Accreditation of Arkansas Public Schools and School Districts issued by the division as may be required by this section.

(e) It is the responsibility of the division to receive and maintain records of instructional hours of Tier I training obtained under this section.

(f) The state board is authorized to promulgate rules consistent with the provisions of this section.

History. Acts 2003 (2nd Ex. Sess.), No. 61, § 1; 2005, No. 730, § 1; 2007, No. 617, § 23; 2015, No. 345, §§ 1, 2; 2019, No. 315, § 297; 2019, No. 910, § 1662.

Amendments. The 2019 amendment by No. 315 deleted “and regulations” following “rules” in (f).

The 2019 amendment by No. 910 substituted “Division of Elementary and Secondary Education” for “Department of Education” in (a)(1)(A); and substituted “division” for “department” throughout the section.

6-20-2206. Miscellaneous provisions.

(a) If the Division of Elementary and Secondary Education determines that an overpayment has been made to a school district, open-enrollment public charter school, or education service cooperative in any funding category authorized by law, the division is authorized to withhold the overpayment from future funding of the school district, open-enrollment public charter school, or education service cooperative and is authorized to transfer the amount withheld for the overpayment to the line item appropriation from which the overpayment was initially made.

(b) Each school district, local education agency, open-enrollment public charter school, and education service cooperative shall prepare an annual statement of the financial conditions and transactions of the school district, open-enrollment public charter school, or education service cooperative as of June 30 of each year.

(c) In order for a school district, open-enrollment public charter school, or education service cooperative to be entitled to state aid as provided by law, each school district, open-enrollment public charter school, and education service cooperative shall satisfy the following requirements:

(1) Expenditures for any fiscal year shall not exceed the legal revenues for that year;

(2) The school district, open-enrollment public charter school, and education service cooperative shall maintain such records and make such reports relative to attendance, receipts, and disbursements and other reports as required by the rules of the State Board of Education;

(3) The school, school district, open-enrollment public charter school, and education service cooperative shall maintain proper financial records in accordance with the Arkansas Educational Financial Accounting and Reporting System, which includes the Arkansas Financial Accounting Handbook, and any reports required pursuant to § 6-20-2202(e)(2);

(4)(A) The school district, open-enrollment public charter school, and education service cooperative shall file annually with the state board a salary schedule for its licensed employees which recognizes a minimum level of training and experience.

(B) This schedule shall reflect the actual pay practices of the school district, open-enrollment public charter school, or education service cooperative, including all fringe benefits and supplemental salary schedules.

(C) Salary increments for experience or education, or both, shall be identified on the schedule; and

(5)(A) All pupil attendance records shall be kept in their original form.

(B) Pupil attendance records shall be kept according to law and rule on paper or electronic forms either furnished or approved by the division.

(C) Original pupil attendance records shall be kept on file in the office of the superintendent of schools after the school term is ended for a period of three (3) years, and these records shall be available for monitoring purposes during any day of the school term by the teachers or other persons designated to keep attendance.

(d) School districts may not include the cost of substitute teachers, extended contracts for extracurricular activities, or supplementary pay for extracurricular activities in meeting the expenditures requirement for student classroom teacher salaries.

(e) Any licensed classroom teacher or administrator of a school, school district, open-enrollment public charter school, or education service cooperative that provides false expenditure information may have his or her license placed on probation, suspended, or revoked pursuant to rules promulgated by the state board.

History. Acts 2003 (2nd Ex. Sess.), No. 61, § 1; 2005, No. 730, § 1; 2013, No. 1138, § 49; 2019, No. 757, § 46; 2019, No. 910, §§ 1663, 1664.

Amendments. The 2019 amendment by No. 757 deleted “and shall be public records” following “form” in (c)(5)(A).

The 2019 amendment by No. 910 substituted “Division of Elementary and Secondary Education” for “Department of Education” in (a); and substituted “division” for “department” in (a) and (c)(5)(B).

6-20-2207. Rulemaking authority.

(a)(1)(A) The State Board of Education shall promulgate rules governing a uniform budget and accounting system that shall be known as the “Arkansas Educational Financial Accounting and Reporting System”.

(B) This system shall include a uniform chart of accounts known as the “Arkansas Financial Accounting Handbook” that shall be exempt from the rulemaking process pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(2) These rules shall be applied to all school districts, open-enrollment public charter schools, and education service cooperatives for purposes of reporting and accounting for revenues and expenditures.

(3) As necessary to comply with federal law, the Arkansas Financial Accounting Handbook initially shall comply with the Financial Accounting for Local and State School Systems, 2003 Edition (NCES 2004-318). The Arkansas Financial Accounting Handbook shall be exempt from the rulemaking process and procedures required pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(b)(1)(A) The state board shall amend the rules, and the Division of Elementary and Secondary Education shall amend the Arkansas Financial Accounting Handbook provided in subsection (a) of this section as necessary.

(B) The amendments, annual revisions, and financial accounting updates to the Arkansas Financial Accounting Handbook shall be developed with representatives from the Arkansas Association of School Business Officials, the education service cooperatives, and other school district officials as designated by the division.

(2) Before making an amendment to the Arkansas Financial Accounting Handbook, the division shall provide written notice via a Commissioner of Elementary and Secondary Education memo to the school districts, open-enrollment public charter schools, and education service cooperatives.

(3) Amendments, annual revisions, and financial accounting updates shall be effective on July 1 of the next fiscal year or ninety (90) days from the date of the commissioner’s memo, whichever is later, unless:

(A) The commissioner declares that there is an emergency, at which time the change shall be effective immediately upon the date specified in the commissioner’s memo;

(B) A new program or revenue source requires new accounting codes, at which time the change shall be effective immediately upon the date specified in the commissioner’s memo; or

(C)(i) The change affects only a few school districts and the school districts have mutually agreed to make the change.

(ii) The changes shall be effective immediately upon the date specified in the commissioner’s memo.

(c) Any school district, open-enrollment public charter school, or education service cooperative that fails to comply with state law or

rules governing and providing a uniform chart of accounts for budgeting of revenues, expenditures, and financial reporting shall be deemed to be in fiscal distress and subject to the applicable enforcement provisions as provided by law.

(d) Any school district, open-enrollment public charter school, or education service cooperative that fails to comply with the expenditure requirements of any public school, public school district, or education service cooperative funding law shall be deemed to be in fiscal distress and subject to the applicable enforcement provisions as provided by law.

History. Acts 2003 (2nd Ex. Sess.), No. 61, § 1; 2005, No. 730, § 1; 2007, No. 617, § 24; 2019, No. 757, § 47; 2019, No. 910, § 1665.

Amendments. The 2019 amendment by No. 757 inserted “initially” in the first sentence of (a)(3).

The 2019 amendment by No. 910 substituted “Division of Elementary and Sec-

ondary Education” for “Department of Education” in (b)(1)(A); substituted “division” for “department” in (b)(1)(B) and (b)(2); and substituted “Commissioner of Elementary and Secondary Education” for “Commissioner of Education” in (b)(2).

6-20-2208. Monitoring of expenditures.

(a)(1) The General Assembly determines that, although funds may be distributed to school districts under this subchapter, it is the duty and responsibility of the State of Arkansas to monitor such expenditures to ensure that each public school child in Arkansas is provided with an adequate education.

(2) The General Assembly further finds that a uniform system of accounting for and reporting expenditures is necessary to allow the state to monitor expenditures.

(b) Each school district shall ensure that funds distributed by the State of Arkansas to the district are utilized in an efficient manner in order to provide an adequate education.

(c) Each school district shall:

(1) Expend sums for teacher salaries in order to meet the requirements of Arkansas law;

(2)(A) Expend the sums allocated to the school district under § 6-20-2305(b) for salaries and other instructional aid components to benefit students in the special needs categories within the school district unless other expenditures are allowed by law or rule of the State Board of Education or the Division of Elementary and Secondary Education.

(B) Further ensure that those sums are used to improve the educational opportunity of those children with a primary emphasis on improving each student’s proficiency;

(3) Expend other sums as may be allocated under this subchapter and as may be required by law in order to provide an equal opportunity for an adequate education;

(4) Ensure that sums appropriated by law and allocated to the school district are used to meet standards for accreditation and to provide the required curriculum for all students in the school district;

(5) Ensure that sums allocated for facilities or other capital needs are spent in accordance with law; and

(6) Expend state and local revenues on gifted and talented programs:

(A) In an amount equal to fifteen hundredths (0.15) of the foundation funding amount multiplied by five percent (5%) of the school district's average daily membership for the previous year; and

(B) Only upon gifted and talented programs in accordance with rules promulgated by the state board.

(d)(1) During the appropriate Arkansas public school computer network reporting cycle each year, each school district shall submit appropriate data to the division establishing the school district's compliance with this section.

(2) The data shall be timely, accurate, and in the format required by rules promulgated by the state board.

(3) The data reported shall reflect the expenditure of each category of additional education categories.

(4) Reports for each school district shall be developed by the division and transmitted to the Governor, the Senate Committee on Education, and the House Committee on Education.

History. Acts 2003 (2nd Ex. Sess.), No. 61, § 1; 2005, No. 730, § 1; 2009, No. 376, § 42; 2019, No. 910, §§ 1666-1668.

Amendments. The 2019 amendment substituted "Division of Elementary and

Secondary Education" for "Department of Education" in (c)(2)(A); and substituted "division" for "department" in (d)(1) and (d)(4).

6-20-2210. Limitation on fund balances — Definitions.

(a) As used in this section:

(1) "Facilities master plan" means the same as defined in § 6-21-803;

(2) "Net legal balance" means the:

(A) Combined balance for a public school district's teacher's salary fund, operating fund, and debt services fund; minus

(B) Combined balance for the following funds for a public school district's categorical funding:

(i) National school lunch fund;

(ii) Alternative learning environment fund;

(iii) English-language learner fund; and

(iv) Professional development fund; minus

(C) Escrow balance restricted for the retirement of federal qualified bonds;

(3) "Net legal balance revenues" means:

(A) Revenues placed into the teacher's salary fund, operating fund, and debt services fund; minus

(B) Revenues placed into the:

(i) National school lunch fund;

(ii) Alternative learning environment fund;

(iii) English-language learner fund; or

(iv) Professional development fund; minus

(C) Proceeds derived from federal qualified bonds;

(4)(A) "Revenues" means the same as defined in the latest version of the Arkansas Financial Accounting Handbook established by the Division of Elementary and Secondary Education under § 6-20-2203.

(B) "Revenues" does not include financing sources such as:

- (i) Bond or other debt proceeds;
- (ii) Loans;
- (iii) Bonded debt refunding savings;
- (iv) Consolidation and annexation funding;
- (v) Audit adjustments;
- (vi) Proceeds from the sale or loss of public school district real or personal property;
- (vii) Interfund transfers; or
- (viii) Other similar nonrevenue financing sources as defined in:
 - (a) The latest version of the Arkansas Financial Accounting Handbook established by the division under § 6-20-2203; or
 - (b) Rules promulgated by the division; and

(5) "School district" means the same as defined in § 6-21-803.

(b) If at the close of the fiscal year a public school district has a net legal balance that exceeds twenty percent (20%) of the public school district's current year net legal balance revenues, the public school district shall within five (5) years reduce its net legal balance to no more than twenty percent (20%) of the public school district's current year net legal balance revenues.

(c) A public school district may reduce its excess net legal balance under subsection (a) of this section by:

(1)(A) Transferring funds into the public school district's building fund.

(B) Any funds transferred into the public school district's building fund under subdivision (c)(1)(A) of this section shall be used for construction, renovation, repair, or other planned building fund expenditure or project allowed within building fund coding specifications in the latest version of the annual financial report and budget expenditures fund specification of the Arkansas Public School Computer Network.

(C) If the construction, renovation, repair, or other planned building fund expenditure or project under subdivision (c)(1)(B) of this section is cancelled or revised such that the funds are no longer dedicated to the construction, renovation, repair, or other planned building fund expenditure or project, the public school district may transfer the funds back into the fund from which the transfer was made under subdivision (c)(1)(A) of this section unless transferring the funds will result in the net legal fund balance exceeding twenty percent (20%) of the public school district's current year net legal balance revenues; or

(2) Spending funds on, including without limitation:

- (A) Prekindergarten programs;
- (B) Remediation programs;
- (C) Career and technical education or workforce readiness programs; or

- (D) Any other program or for any other purpose authorized by law.
- (d)(1) The division shall:
- (A) Monitor on a yearly basis each public school district’s compliance with the requirements of this section; and
- (B) Withhold subsequent state funding from a public school district in the amounts under subdivision (d)(2) of this section for each year the public school district fails to make the required reduction.
- (2) If a public school district fails to reduce every year within the five-year period its net legal balance by twenty percent (20%) of the total required reduction under subsection (b) of this section, the division shall withhold subsequent state funding from that public school district in an amount equal to the amount the public school district failed to reduce its net legal balance for that year.
- (e)(1) Under an unusual and limited circumstance, including without limitation an increase in one-time funds, a public school district may request that the division waive the requirements of this section.
- (2) A public school district seeking a waiver shall file a waiver request with the Commissioner of Elementary and Secondary Education, accompanied by a resolution adopted by the public school district’s board of directors, describing the unusual and limited circumstances.
- (3) The commissioner may grant a waiver request under this subsection if the commissioner finds that the request is necessary based upon the unusual and limited circumstances.
- (f) The division shall promulgate rules to implement this section.

History. Acts 2017, No. 1105, § 1; 2019, No. 910, §§ 1669-1671.

Amendments. The 2019 amendment substituted “Division of Elementary and Secondary Education” for “Department of

Education” in (a)(4)(A); substituted “division” for “department” throughout the section; and substituted “Commissioner of Elementary and Secondary Education” for “Commissioner of Education” in (e)(2).

SUBCHAPTER 23 — PUBLIC SCHOOL FUNDING ACT OF 2003

- SECTION.
- 6-20-2303. Definitions.
- 6-20-2304. Rules — Access to information on legislation.
- 6-20-2305. School funding.
- 6-20-2306. Division of Elementary and Secondary Education to

- SECTION.
- provide funding — Adjustments for overpayments.
- 6-20-2308. Calculation of miscellaneous funds.
- 6-20-2309. Enhanced transportation funding.

A.C.R.C. Notes. Acts 2019, No. 1082, § 1, provided: “Legislative intent. The General Assembly finds that:

“(1) Full implementation of Arkansas’ goal of a student-focused education system for all students will require most schools to rethink, if not restructure, their entire educational program and reallocate all current and any new resources to a

restructured and more effective educational delivery;

“(2) Since 2005, two billion six hundred eighty-six million eight hundred five thousand eight hundred fifty dollars (\$2,686,805,850) in national school lunch funds have been sent to public schools in Arkansas;

“(3) National school lunch state cat-

egorical programs are designed to provide extra help and strategies for struggling students and must be focused to target the needs of struggling students;

“(4) Current flexibility in national school lunch state categorical funding allowable expenditures has not shown that the funds have had a positive impact on student outcomes or successfully closed achievement gaps;

“(5) Public school districts spend the highest amount of national school lunch state categorical funds on curriculum specialists and instructional facilitators and other activities that are not specified by law or Department of Education rule that have been approved by the Department of Education, and transfer national school lunch state categorical funds to other categorical programs;

“(6) Thirty-four percent (34%) of Arkansas public students in grades three through ten (3-10) are scoring at the lowest level of performance on the ACT Aspire reading test;

“(7) Six (6) Core Strategies were included in the Odden and Picus Original 2003 Adequacy Report, the 2006 Recalibration report, and the 2014 Desk Audit, and all educational initiatives included in these reports and the funding used for the educational initiatives are backed by evidence-based research;

“(8) Arkansas’s students must be prepared for college, careers, and citizenship in the current global economy, and work in the knowledge-based economy requires the same skills and expertise to go to college or to enter the work force after high school;

“(9) Public schools must deploy more powerful instructional strategies and use resources more productively, and need to change the curriculum that is used, the means of organizing instruction, and how resources are used;

“(10) Teacher development opportunities must be redesigned to provide personalized opportunities so that all teachers acquire the instructional expertise to educate all students by using the extensive professional development resources that are included in the funding model in the most effective ways;

“(11) Schools must reinforce achievement for struggling students by providing a series of extended learning opportunities, such as some combination of one-on-

one and small group tutoring by a licensed teacher, extended-day learning, and summer school programs, and must hold performance standards high and vary instructional time so all students can achieve rigorous standards in order to work towards closing the achievement gap; and

“(12) The House Committee on Education and the Senate Committee on Education, meeting jointly, find it necessary to revise current national school lunch state categorical funding allowable expenditures in order to maximize the most effective use of funds and focus allowable expenditures on targeted programs that maximize student achievement.”

Effective Dates. Acts 2019, No. 667, § 6: Apr. 3, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that funding for public schools is the obligation of the state; that ensuring that adequate funding is provided is the duty of the General Assembly; and that this act is immediately necessary to ensure that funding is provided for the 2019-2020 and 2020-2021 school years so that school districts can budget accordingly. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto”.

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of

the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019".

6-20-2303. Definitions.

As used in this subchapter:

(1) "Additional education categories" means state funds distributed to school districts for alternative learning environments, English-language learners, national school lunch students, and professional development;

(2) "Alternative learning environment" means a student intervention program in compliance with § 6-48-101 et seq. that seeks to eliminate traditional barriers to learning for students;

(3)(A) "Average daily membership" means the total number of days of school attended plus the total number of days absent by students in kindergarten through grade twelve (K-12) during the first three (3) quarters of each school year divided by the number of school days actually taught in the school district during that period of time rounded up to the nearest hundredth.

(B) In those instances in which the average daily membership for fewer than three (3) quarters is specified, the number of days used in the calculation shall be the days in the specified period of time.

(C) As applied to this subchapter, students who may be counted for average daily membership are:

(i) Students who:

(a) Reside within the boundaries of the school district;

(b) Are enrolled in a public school operated by the school district; and

(c) Are enrolled in a curriculum that fulfills the requirements established by the State Board of Education under the Standards for Accreditation of Arkansas Public Schools and School Districts;

(ii)(a) Students who reside within the boundaries of the school district but due to geographic barriers attend school out-of-state under a tuition agreement.

(b) This subdivision (3)(C)(ii) shall apply even if the students enrolled in an out-of-state school are not enrolled in a curriculum that fulfills the requirements established by the state board under the Standards for Accreditation of Arkansas Public Schools and School Districts;

(iii) Legally transferred students living outside the school district but are:

(a) Attending a public school in the school district under a provision of this Code; and

(b) Are enrolled in a curriculum that fulfills the requirements established by the state board under the Standards for Accreditation of Arkansas Public Schools and School Districts;

(iv) Open-enrollment public charter school students who are enrolled in a curriculum that fulfills the requirements established by the state board under the Standards for Accreditation of Arkansas Public Schools and School Districts;

(v) Students who are eligible to attend and who reside within the boundaries of a school district and are enrolled in the Arkansas National Guard Youth Challenge Program, so long as the students are participants in the program; or

(vi) Students who are enrolled in a public school operated by the school district and who have been placed by the Department of Human Services in a licensed or approved foster home, shelter, or facility, or an exempt child welfare agency as defined under § 9-28-402, if:

(a) The student was enrolled in the school district before placement;

(b) The foster home or other placement is located within the boundaries of the school district;

(c) The juvenile division of the circuit court with jurisdiction over a dependency-neglect action concerning the child has issued an order allowing the child to attend school in the school district; or

(d) Enrollment in the school district is necessary to ensure continuity of educational services under § 9-28-113.

(D)(i) Except for those circumstances otherwise allowed by law or rule, any student who is absent from daily attendance for more than ten (10) consecutive school days shall be dropped from the attendance records of the school, school district, or open-enrollment public charter school.

(ii) Any student who fails to attend school by the tenth regular school day of the semester shall be retroactively dropped from the first day of the school semester.

(E)(i) Except as otherwise provided by law, a public school district or open-enrollment public charter school that teaches a distance learning course to one (1) or more home-schooled or private school students shall be eligible for an amount equal to one-sixth ($\frac{1}{6}$) of the state foundation funding amount per distance learning course for each private school student or home-schooled student who is:

(a) Residing within the school district where the public school or open-enrollment public charter school is located; and

(b) Physically attending the distance learning course or courses on the campus of the public school district or open-enrollment public charter school.

(ii) However, under no circumstances shall a public school district or open-enrollment public charter school be entitled to more than the equivalent of state foundation funding for one (1) average daily membership regardless of the number of distance learning courses received by a particular home-schooled or private school student;

(4) "Classroom teacher" means:

(A) An individual who is required to hold a teaching license from the Division of Elementary and Secondary Education and who is

engaged directly in instruction with students in a classroom setting for more than seventy percent (70%) of the individual's contracted time;

(B) A guidance counselor; or

(C) A librarian;

(5) "Declining enrollment funding" means the amount of state financial aid provided to an eligible school district from funds made available for the decline in the average daily membership of the school district in the preceding school year compared to the school year before the preceding school year;

(6) "English-language learners" means students identified by the state board as not proficient in the English language based upon approved English proficiency assessment instruments administered annually in the fall of the current school year, which assessments measure oral, reading, and writing proficiency;

(7) "Foundation funding" means an amount of money specified by the General Assembly for each school year to be expended by school districts for the provision of an adequate education for each student;

(8) "Gifted and talented programs" means academic curricula, courses, and options designed to improve educational opportunities for gifted and talented students pursuant to guidelines adopted by the state board in accordance with § 6-42-106;

(9) "Gifted and talented students" means those students who have been identified as meeting the criteria of the gifted program approval standards established by the state board;

(10) "Legal revenues" means those revenues received or cash balances carried forward by a school district and used to make payments from:

(A)(i) The teachers' salary fund, which means the set of accounts used to record the receipts and expenditures for payment of salaries for licensed personnel, licensed substitutes, tuition, and fringe benefits as defined by § 6-17-908.

(ii) Licensed personnel salaries from federal programs are excluded;

(B) The operating fund, which means the set of accounts used to record the receipts and expenditures for current operating expenses other than those that relate to the purposes set out for other funds; and

(C) The debt service fund, which means the set of accounts used to record local tax receipts and expenditures for the retirement of commercially bonded debt;

(11) "Millage rate" means the millage rate listed in the most recent tax ordinance approved by the county quorum court under the authority of § 14-14-904 for the tax year used in a calculation made under this subchapter;

(12) "Miscellaneous funds" means funds received by a school district:

(A) From federal forest reserves, federal grazing rights, federal mineral rights, federal impact aid, federal flood control, wildlife refuge funds, and severance taxes; and

(B) In lieu of taxes, and local sales and use taxes dedicated to education under § 26-74-201 et seq., § 26-74-301 et seq., § 26-75-301 et seq., and the Local Government Bond Act of 1985, § 14-164-301 et seq.;

(13)(A) "National school lunch students" means those students or the percentage of enrolled students from low socioeconomic backgrounds as indicated by eligibility for free or reduced-price meals under the National School Lunch Act, 42 U.S.C. § 1751 et seq., as determined on October 1 of each previous school year and submitted to the Division of Elementary and Secondary Education, unless the school district is identified by the Division of Elementary and Secondary Education as participating in the special assistance certification and reimbursement alternative implemented under 42 U.S.C. § 1759a.

(B) If the school district is participating under 42 U.S.C. § 1759a, then for purposes of funding under § 6-20-2305(b), such a school district's annual percentage of national school lunch students shall be equal to the percentage submitted in the base year, which means the last school year for which eligibility determinations were made and in accordance with rules adopted by the state board.

(C) The state board may promulgate rules as necessary to meet the federal requirements under 42 U.S.C. § 1759a in order to enable the school districts and open-enrollment public charter schools to fully participate in federal and state programs;

(14) "Net revenues" means actual revenues generated from ad valorem taxes and distributed to a school district multiplied by the ratio derived from dividing the uniform rate of tax by the total millage rate of the school district;

(15) "Previous year" or "previous school year" means the school year immediately preceding the school year or fiscal year in which funds are allocated;

(16)(A) "Professional development" has the same meaning as the meaning given to the term under § 6-17-704.

(B) Professional development shall result in individual, school-wide, and systemwide improvement designed to ensure that all students demonstrate proficiency in the state academic standards;

(17) "Quarterly average daily membership" means the average daily membership for one (1) quarter of a school year used for calculating student growth funding and as determined by rule established by the Division of Elementary and Secondary Education;

(18) "Revenues" means the proceeds generated from ad valorem taxes and distributed to a school district by a county treasurer from January 1 through December 31 of the calendar year in which the school fiscal year began, including:

(A) The amount of the final distribution of ad valorem taxes to a school district as shown on the final tax settlement of the county under § 26-39-402 for the calendar year in which the school fiscal year began;

(B)(i) Delinquent ad valorem taxes distributed to a school district in the calendar year in which the school fiscal year began.

(ii) Delinquent ad valorem taxes include the penalties and interest that are distributable to a school district under existing law;

(C) The actual amount of homestead tax credit distributed to a school district in the calendar year in which the school fiscal year began;

(D) Excess commissions distributed to a school district in the calendar year in which the school fiscal year began;

(E) Interest earned on any tax funds held in trust and distributed to a school district in the calendar year in which the school fiscal year began;

(F) Ad valorem tax proceeds from land redemptions distributed to a school district in the calendar year in which the school fiscal year began; and

(G) A subtraction of all costs and commissions authorized by law relating to the collection of ad valorem taxes that the county deducted from distributions to a school district in the calendar year in which the school fiscal year began;

(19) "School district" means a geographic area with an elected board of directors that qualifies as a taxing unit for purposes of ad valorem property taxes under Title 26 of the Arkansas Code, which board of directors conducts the daily affairs of public schools pursuant to the supervisory authority vested in it by the General Assembly and this title;

(20) "Secondary vocational area center" means a public secondary vocational institution organized for the specific purpose of educating high school students in specific occupational or vocational areas and serving students from more than one (1) participating school district;

(21) "Special education high-cost occurrences" means individual cases in which special education and related services required by the individualized education program of a particular student with disabilities are unduly expensive, extraordinary, or beyond the routine and normal costs associated with special education and related services provided by a school district and funding is pursuant to rules promulgated by the state board;

(22) "State foundation funding aid" means the amount of state financial aid provided to a school district under § 6-20-2305(a)(1);

(23) "Student growth funding" means the amount of state financial aid provided to each school district from funds made available for the growth in the average daily membership for the school district;

(24) "Teachers of the gifted and talented" means individuals certified by the state board to teach gifted and talented students;

(25) "Technology" means any equipment for instructional purposes that is electronic in nature, including, but not limited to, computer hardware, computer software, internet connectivity, and distance learning; and

(26) "Uniform rate of tax" means a uniform rate of ad valorem property tax of twenty-five (25) mills to be levied on the assessed value of all taxable real, personal, utility, and regulated carrier property in

the state to be used solely for the maintenance and operation of the public schools as required by Arkansas Constitution, Article 14, § 3, as amended by Arkansas Constitution, Amendments 11, 40, and 74.

History. Acts 2003 (2nd Ex. Sess.), No. 59, § 1; 2005, No. 2283, § 1; 2007, No. 272, § 2; 2007, No. 461, § 1; 2007, No. 825, § 1; 2009, No. 154, § 1; 2009, No. 1397, §§ 1-3; 2009, No. 1450, § 1; 2009, No. 1469, §§ 14, 15; 2011, No. 989, § 73; 2011, No. 1118, § 3; 2013, No. 322, §§ 1, 2; 2013, No. 557, § 1; 2013, No. 969, § 10; 2013, No. 1138, § 51; 2015, No. 846,

§§ 25-27; 2015, No. 1094, § 4; 2019, No. 757, § 48; 2019, No. 910, §§ 1672-1674.

Amendments. The 2019 amendment by No. 757 substituted “high-cost” for “catastrophic” in (21).

The 2019 amendment by No. 910 substituted “Division of Elementary and Secondary Education” for “Department of Education” throughout the section.

6-20-2304. Rules — Access to information on legislation.

(a) The State Board of Education shall have the authority, acting pursuant to its rulemaking powers, to adopt rules for the implementation of the provisions of this subchapter.

(b) The state board shall provide access to legislation of the General Assembly concerning public school funding by the following methods:

(1) Including a link to the information on the Division of Elementary and Secondary Education website; and

(2) Requiring the superintendent of each public school district in the state to provide each member of the public school district’s board of directors with:

(A) Information containing the website address where the member can access the specific legislation; or

(B) Upon request, a printed copy of the legislation.

History. Acts 2003 (2nd Ex. Sess.), No. 59, § 1; 2007, No. 1587, § 2; 2019, No. 315, § 298; 2019, No. 910, § 1675.

Amendments. The 2019 amendment by No. 315 substituted “rules” for “regulations” in (a).

The 2019 amendment by No. 910 substituted “Division of Elementary and Secondary Education” for “Department of Education” in (b)(1).

6-20-2305. School funding.

(a)(1)(A) For each school year, each school district shall receive state foundation funding aid computed as the foundation funding amount under subdivision (a)(2) of this section less the sum of:

(i) Ninety-eight percent (98%) of the uniform rate of tax multiplied by the property assessment of the school district; and

(ii) An amount of miscellaneous funds of the school district calculated under § 6-20-2308.

(B) The Division of Elementary and Secondary Education shall distribute state foundation funding aid to each school district in twelve (12) monthly payments.

(2)(A) For the 2019-2020 school year, the foundation funding amount is equal to six thousand eight hundred ninety-nine dollars (\$6,899)

multiplied by the school district's average daily membership for the previous school year.

(B) For the 2020-2021 school year and each school year thereafter, the foundation funding amount is equal to seven thousand eighteen dollars (\$7,018) multiplied by the school district's average daily membership for the previous school year.

(3)(A) A school district that has experienced a decline in average daily membership over the two (2) immediately preceding school years shall receive:

(i) Declining enrollment funding equal to the difference between the average of the two (2) immediately preceding years' average daily memberships and the average daily membership for the previous school year multiplied by the amount of foundation funding set forth in subdivision (a)(2) of this section; or

(ii) Special needs isolated funding under § 6-20-604.

(B) Any funding appropriated and available for declining enrollment funding under subdivision (a)(3)(A)(i) of this section or special needs isolated funding under § 6-20-604 that is not distributed under subdivision (a)(3)(A) of this section shall be prorated and distributed equally per average lost student to school districts that meet the qualifications for both declining enrollment funding under subdivision (a)(3)(A)(i) of this section and special needs isolated funding under § 6-20-604.

(C) No school district shall receive both declining enrollment funding under subdivision (a)(3)(A)(i) of this section and student growth funding under subsection (c) of this section.

(4)(A)(i) Except as provided in subdivisions (a)(4)(C) and (D) of this section, by the end of each school fiscal year, for a school district whose net revenues are less than the sum of ninety-eight percent (98%) of the uniform rate of tax multiplied by the property assessment of the school district, the Division of Elementary and Secondary Education shall distribute to the school district the difference between:

(a) The net revenues distributed to the school district as reported under § 26-80-101(b)(4)(A)(ii) for the calendar year immediately preceding the current school year; and

(b) The sum of ninety-eight percent (98%) of the uniform rate of tax multiplied by the property assessment of the school district.

(ii) The Division of Elementary and Secondary Education may distribute to the school district a lesser amount than required under subdivisions (a)(4)(A)(i)(a) and (b) of this section if after the lesser amount is distributed the school district will receive the foundation funding amount under this subsection.

(B) For a school district whose net revenues are more than the sum of ninety-eight percent (98%) of the uniform rate of tax multiplied by the property assessment of the school district, the Division of Elementary and Secondary Education, under the authority of § 6-20-2306, shall recoup from the school district an amount equal to the difference between:

(i) The net revenues of the school district; and

(ii) The sum of ninety-eight percent (98%) of the uniform rate of tax multiplied by the property assessment of the school district.

(C) The Division of Elementary and Secondary Education shall not distribute to a school district the funds under subdivision (a)(4)(A)(i) of this section if, regardless of the school district's tax collection rate, the school district's net revenues plus miscellaneous funds calculated under § 6-20-2308 meet or exceed the foundation funding amount set forth in this subsection.

(D)(i) A county treasurer shall submit annually to the Division of Elementary and Secondary Education an annual summary report of all proceeds generated from ad valorem taxes and distributed by the county to a school district for the period beginning January 1 and ending on December 31 of the preceding calendar year to verify the receipt of revenues under § 26-80-101(b)(4)(A)(ii).

(ii)(a) The Division of Elementary and Secondary Education may adjust data appropriately if it determines that irregular distributions by a county treasurer of excess commissions cause a school district's property tax collection rate from the uniform rate of tax to exceed ninety-eight percent (98%).

(b) The Division of Elementary and Secondary Education may adjust the uniform rate of tax from an irregular distribution to an amount not in excess of ninety-eight percent (98%) and apply the excess distribution amount the following school year.

(iii) Evidence of overlapping revenue reporting or irregular distributions shall be provided in the form required by the Division of Elementary and Secondary Education.

(b)(1) In addition to state foundation funding aid, each school district shall receive funding for additional education categories as provided in subdivisions (b)(2)-(5) of this section.

(2)(A)(i) For each school year, alternative learning environment funding shall be four thousand seven hundred dollars (\$4,700) multiplied by the number of identified alternative learning environment students enrolled during the previous school year.

(ii) Funding for students in alternative learning environments shall be distributed based on rules promulgated by the State Board of Education.

(B)(i)(a) Beginning with the 2020-2021 school year, secondary vocational area center funding shall be established by a tiered funding structure for distributing vocational center aid for each full-time equivalent student, as defined by the Division of Career and Technical Education.

(b) The vocational center aid under subdivision (b)(2)(B)(i)(a) of this section shall be determined by the Division of Career and Technical Education and approved by the Career Education and Workforce Development Board.

(ii) The Division of Career and Technical Education shall promulgate rules for:

(a) A tiered system of determining the amount of vocational center aid under subdivision (b)(2)(B)(i) of this section for each secondary vocational area center; and

(b) The method of distribution of the vocational center aid under subdivision (b)(2)(B)(i) of this section.

(3)(A) For the 2019-2020 school year, funding for students who are identified as English-language learners shall be three hundred forty-five dollars (\$345) for each identified English-language learner.

(B) Funding for English-language learners shall be distributed to public school districts for students who have been identified as not proficient in the English language based upon a state-approved English proficiency assessment instrument.

(C) Funds allocated for English-language learners to public school districts under this subchapter shall be expended only for eligible activities as identified in current rules promulgated by the State Board of Education and are a supplement to funding for national school lunch students provided in subdivision (b)(4) of this section.

(D) For the 2020-2021 school year and each school year thereafter, funding for students who are identified as English-language learners shall be three hundred fifty-two dollars (\$352) for each identified English-language learner.

(4)(A) Enhanced Student Achievement Funding for each identified national school lunch student shall be as follows:

(i) For a public school district in which ninety percent (90%) or more of the previous school year's enrolled students are national school lunch students, the amount of per-student Enhanced Student Achievement Funding is for each school year, one thousand five hundred seventy-six dollars (\$1,576);

(ii) For a public school district in which at least seventy percent (70%) but less than ninety percent (90%) of the previous school year's enrolled students are national school lunch students, the amount of per-student Enhanced Student Achievement Funding is for each school year, one thousand fifty-one dollars (\$1,051); and

(iii) For a public school district in which less than seventy percent (70%) of the previous school year's enrolled students are national school lunch students, the amount of per-student Enhanced Student Achievement Funding is for each school year, five hundred twenty-six dollars (\$526).

(B)(i)(a) Except as provided under subdivision (b)(4)(B)(i)(c) of this section, Enhanced Student Achievement Funding under this subdivision (b)(4) shall be based on the number of national school lunch students for the immediately preceding school year determined under § 6-20-2303(13)(A).

(b) If the public school district is participating under 42 U.S.C. § 1759a, funding under this subdivision (b)(4) is based on the percentage determined in § 6-20-2303(13)(B) multiplied by the number of enrolled students for the immediately preceding school year.

(c) The per-student Enhanced Student Achievement Funding for an open-enrollment public charter school shall be based upon the current school year enrollment:

(1) In the initial year of operation for an open-enrollment public charter school; or

(2) In a year in which an open-enrollment public charter school adds a grade.

(ii)(a) If a public school district will receive in the current school year Enhanced Student Achievement Funding under subdivision (b)(4)(A) of this section that is based on a different per-student amount of Enhanced Student Achievement Funding than the public school district received in the immediately preceding school year, due to a percentage change in national school lunch students, the Division of Elementary and Secondary Education shall adjust the funding to the public school district in a transitional three-year period.

(b) The amount of Enhanced Student Achievement Funding under this subdivision (b)(4)(B)(ii) shall be increased or decreased in each year of a three-year transition period by one-third ($\frac{1}{3}$) of the difference between the amount of Enhanced Student Achievement Funding per student for the current year and the amount of Enhanced Student Achievement Funding per student for the immediately preceding year, adjusted for changes to the funding rates in subdivision (b)(4)(A) of this section.

(iii)(a) The Division of Elementary and Secondary Education shall establish rules to implement the transitional Enhanced Student Achievement Funding provided in subdivision (b)(4)(B)(ii) of this section.

(b) The rules shall include the methods of transition for a school district that:

(1) Experiences a decrease in the amount of Enhanced Student Achievement Funding per student under subdivision (b)(4)(A) of this section;

(2) Experiences an increase in the amount of Enhanced Student Achievement Funding per student under subdivision (b)(4)(A) of this section; or

(3) Within a three-year transition period, experiences both a decrease and an increase in the amount of Enhanced Student Achievement Funding per student under subdivision (b)(4)(A) of this section.

(iv) Under no circumstances shall a public school district be entitled to receive more or less Enhanced Student Achievement Funding as a result of the transitional process than the public school district is otherwise entitled to receive under this subdivision (b)(4) based on the school district's national school lunch student population as a percentage of the public school district's entire student population.

(v)(a) A public school district that has experienced a significant growth in enrolled students in the previous three (3) years shall

receive funding for the expected increase in the number of national school lunch students based on the expected increase in enrolled students based on the levels of funding provided in this section for national school lunch students.

(b) The State Board of Education shall establish rules to be used by the Division of Elementary and Secondary Education to determine:

(1) The amount of growth necessary to qualify as significant growth;

(2) The expected increase in the number of national school lunch students based on the expected increase in enrolled students; and

(3) Which public school districts have experienced a significant growth in enrolled students as necessary to qualify for funding under this subdivision (b)(4)(B)(v).

(c) The Division of Elementary and Secondary Education shall not be required to adjust or fund a public school district's national school lunch students based on the current year's number of national school lunch students enrolled in the public school district or the average growth of students in the public school district.

(C)(i)(a) The State Board of Education shall establish by rule a list of approved programs and purposes for which funds allocated under this subdivision (b)(4) may be expended.

(b) School districts shall expend funds allocated under this subdivision (b)(4) for the programs or purposes on the State Board of Education's list of approved programs and purposes for which funds allocated under this subdivision (b)(4) may be expended, including without limitation:

(1) Classroom teachers, if the school district meets the minimum salary schedule under § 6-17-2403 without using funds provided under this subdivision (b)(4) and those teachers are used for the purposes delineated in this subdivision (b)(4);

(2) Before-school academic programs and after-school academic programs, including without limitation transportation to and from the before-school academic programs and after-school academic programs;

(3) Prekindergarten programs coordinated by the Department of Human Services;

(4) Tutors, teachers' aides, counselors, social workers, nurses, and curriculum specialists;

(5) Parent education;

(6) Summer programs;

(7) Early intervention programs;

(8) Materials, supplies, and equipment, including without limitation technology used for programs or purposes on the State Board of Education's list of approved programs and purposes for which funds allocated under this subdivision (b)(4) may be expended;

(9) Federal child nutrition programs, to the extent necessary to provide school meals without charge to all students under the United States Department of Agriculture Special Assistance Alternative

“Provision 2” program under 42 U.S.C. § 1759a, as it existed on July 1, 2011;

(10) Federal child nutrition programs, to the extent necessary to provide school meals without charge to students otherwise eligible for reduced-price meals under the United States Department of Agriculture’s National School Lunch Program or School Breakfast Program;

(11) Expenses directly related to funding a longer school day;

(12) Expenses directly related to funding a longer school year;

(13) Partnering with state-supported institutions of higher education and technical institutes to provide concurrent courses or technical education options for academic learning to students while those students are still in high school so that the students are college-ready and career-ready upon graduation from high school;

(14) Professional development as identified in the school district’s support plan required under § 6-15-2914;

(15) Implementing components of the Arkansas Advanced Initiative for Math and Science, Inc.;

(16) The College and Career Coaches Program, as administered by the Division of Career and Technical Education under § 6-1-601 et seq.;

(17) Implementing a school-wide evidence-based program intended to close achievement gaps with an arts-infused curriculum;

(18) Dyslexia programs and interventions under § 6-41-601 et seq.; and

(19) Recruiting and retaining effective teachers, if the school district meets the minimum salary schedule under § 6-17-2403 without using funds provided under this subdivision (b)(4), by implementing:

(A)(i) Approaches identified within the school district’s support plan required under § 6-15-2914 to address a disproportionate rate of low-income students or minority students being taught by ineffective teachers, teachers who teach out of their licensure content area, or inexperienced teachers, either within the school district or as compared to surrounding school districts, including without limitation strategies:

(a) For reassignment;

(b) For differentiated pay plans to address identified shortage areas; and

(c) For addressing teacher recruitment and retention, as recommended by the Division of Elementary and Secondary Education, including without limitation models for:

(1) Effective use of teacher leaders;

(2) Cultural responsiveness training; and

(3) Equity audits.

(ii) A school district’s support plan under this subdivision (b)(4)(C)(i)(b)(19)(A) shall include without limitation how the school district identified gaps in equitable access to effective teachers through a review of school-district and school-level data, student-

growth data, a root-cause analysis, research of the strategies used to address the identified gaps, and the measures of the effectiveness of the strategies used, including without limitation student-growth data; and

(B) Levels of differentiated compensation that increase classroom teacher salaries based on a tiered system of licensure established by the State Board of Education under § 6-17-402.

(c) The list of approved programs established before July 24, 2019, by the State Board of Education under subdivision (b)(4)(C)(i)(a) of this section shall expire on June 30, 2022.

(ii) Upon review of the school district's support plan required under § 6-15-2914, if the Commissioner of Elementary and Secondary Education determines that the school district has met the needs of students in the school district for whom the funding for additional educational categories under this subsection is provided and has prudently managed its resources, the commissioner shall give written approval of the detailed planned flexible use of excess national school lunch state categorical funds provided to the school district for up to two (2) years.

(iii) Notwithstanding any other provision of law, if the Division of Elementary and Secondary Education determines that a school district's expenditure of funds allocated under this subdivision (b)(4) would result in the school district's losing funding under any federal law, then the funds allocated to a school district under this subdivision (b)(4) may be expended for other academic programs or salaries.

(iv) The Division of Elementary and Secondary Education may direct that a school district expend available funds on specified programs under subdivision (b)(4)(C)(i) of this section.

(v)(a) By September 15 of each school year, a school district shall submit to the Division of Elementary and Secondary Education a report for the immediately preceding school year listing each program for which funds allocated under this subdivision (b)(4) were expended, the amount expended, and any other information required by the Division of Elementary and Secondary Education concerning the use of funds allocated under this subdivision (b)(4).

(b) The Division of Elementary and Secondary Education shall develop appropriate reporting forms for use by school districts to comply with subdivision (b)(4)(C)(v)(a) of this section.

(vi) Each school district shall submit to the Division of Elementary and Secondary Education a report listing each program and purpose upon which funds allocated under this subdivision (b)(4) were expended, the amount expended, and any other information required by the Division of Elementary and Secondary Education concerning the receipt and use of funds allocated under this subdivision (b)(4).

(vii) The Division of Elementary and Secondary Education shall promulgate rules and develop appropriate reporting forms for use by school districts to comply with this subdivision (b)(4)(C).

(D)(i) By the end of each school year, each school district shall submit to the Division of Elementary and Secondary Education a

report listing each program upon which funds allocated under this subdivision (b)(4) were expended, the amount expended, and any other information required by the Division of Elementary and Secondary Education.

(ii) The Division of Elementary and Secondary Education shall develop appropriate reporting forms for use by school districts.

(E)(i) The Division of Elementary and Secondary Education shall provide a report on the impact of national school lunch student categorical funding provided under this subdivision (b)(4) on closing the achievement gap to the House Committee on Education and the Senate Committee on Education by May 31 each even-numbered year, beginning in 2010.

(ii) The report shall include information broken down by category as described in subdivision (b)(4)(A) of this section on:

(a) How school districts are spending national school lunch student categorical funds, including specific programs utilized by school districts;

(b) The amount of national school lunch student categorical funds transferred to another categorical fund, including an explanation of why the national school lunch student categorical funds were transferred; and

(c) The analysis of student achievement data evaluated in student achievement growth models as defined under § 6-15-2908 shall be expanded to include the evaluation of the best estimates of classroom, school, and school district effects on narrowing the achievement gap, in addition to the examination of student progress based on established value-added longitudinal calculations.

(iii) The report shall be included in the General Assembly's biennial adequacy study to evaluate the adequacy of education in the state.

(F)(i) By June 30, 2012, and by June 30 of each year thereafter, a school district shall spend a minimum of eighty-five percent (85%) of the school district's annual national school lunch state categorical funding allocation as provided under subdivision (b)(4)(C) of this section.

(ii) A school district that on June 30, 2012, has a national school lunch state categorical funding balance in excess of fifteen percent (15%) of the school district's current year annual national school lunch state categorical funding allocation shall reduce its total national school lunch state categorical funding balance by at least ten percent (10%) each year so that by June 30, 2022, and by June 30 of each year thereafter, the school district has a balance of no more than fifteen percent (15%) of the school district's current year annual national school lunch state categorical funding allocation.

(iii)(a) Under an unusual and limited circumstance, including without limitation an increase in one-time funds or an unexpected decrease in school district revenues during a given year, a school district may request that the Division of Elementary and Secondary Education waive the requirements of this subdivision (b)(4)(F).

(b) A school district seeking a waiver shall file a waiver request with the commissioner, accompanied by a resolution adopted by the school district's board of directors, describing the unusual and limited circumstances.

(iv) The commissioner may grant a waiver request under this subdivision (b)(4)(F) for up to one (1) year if the commissioner finds that the request is necessary based upon the unusual and limited circumstances.

(v)(a) The Division of Elementary and Secondary Education shall monitor on a yearly basis each school district's compliance with the requirements of this subdivision (b)(4)(F).

(b) If a school district fails to comply with the requirements of this subdivision (b)(4)(F) during a school year, the Division of Elementary and Secondary Education may in the following school year withhold from that school district's national school lunch state categorical funding allocation an amount equal to the amount required to be spent by the school district in order to be in compliance with the requirements of this subdivision (b)(4)(F).

(c) The Division of Elementary and Secondary Education may redistribute amounts withheld under this subdivision (b)(4)(F) to other school districts entitled to receive national school lunch state categorical funding allocations.

(5)(A) For the 2019-2020 school year, professional development funding shall be equal to an amount of up to thirty-two dollars and forty cents (\$32.40) multiplied by the school district's previous school year average daily membership.

(B) For the 2020-2021 school year, professional development funding shall be equal to an amount of up to forty dollars and eighty cents (\$40.80) multiplied by the school district's previous school year average daily membership.

(C) Funding for professional development for teachers in Arkansas public schools required under the Teacher Excellence and Support System, § 6-17-2801 et seq., other law or rule, or by the school district shall be used for professional development activities and materials that:

(i) Improve the knowledge, skills, and effectiveness of teachers;

(ii) Address the knowledge and skills of administrators and paraprofessionals concerning effective instructional strategies, methods, and skills;

(iii) Lead to improved student academic achievement; and

(iv) Provide training for school bus drivers as outlined in rules promulgated by the Commission for Arkansas Public School Academic Facilities and Transportation.

(D)(i) For the 2019-2020 and 2020-2021 school years, additional funding up to twelve million five hundred thousand dollars (\$12,500,000), provided for professional development above the amount in subdivisions (b)(5)(A) and (B) of this section shall be used by the Division of Elementary and Secondary Education for the

development and administration of professional learning communities for the benefit of public school districts.

(ii)(a) The Division of Elementary and Secondary Education shall promulgate rules to administer the additional professional development funding under subdivision (b)(5)(D)(i) of this section.

(b) The Division of Elementary and Secondary Education may partner with or choose a person, firm, corporation, or education service cooperative to provide the knowledge, skills, experience, and expertise for the development of a research-based process for the implementation of professional learning communities.

(c) Isolated funding under § 6-20-601, student growth funding, and special education high-cost occurrences funding shall be funded as follows:

(1) Isolated funding and special education high-cost occurrences funding shall be allocated and funded to school districts in a line item appropriation within the Public School Fund pursuant to law or rules promulgated by the State Board of Education; and

(2) Student growth funding is calculated as the sum of the following amounts:

(A) One quarter ($\frac{1}{4}$) of the per-student foundation funding for the school district under subdivision (a)(2) of this section multiplied by the increase, if any, of each of the following:

(i) The school district's quarterly average daily membership for the fourth quarter of the previous school year over the average daily membership of the previous school year;

(ii) The school district's quarterly average daily membership for the first quarter of the current school year over the average daily membership of the previous school year;

(iii) The school district's quarterly average daily membership for the second quarter of the current year over the average daily membership of the previous school year; and

(iv) The school district's quarterly average daily membership for the third quarter of the current school year over the average daily membership of the previous school year;

(B) Excluding any increase resulting solely from consolidation or annexation with another school district; and

(C) If net revenues minus any recoupment under subdivision (a)(4)(B) of this section plus miscellaneous funds calculated under § 6-20-2308(b)(1)(A) exceed the foundation funding amount, a school district shall be eligible to receive the amount of calculated student growth funding that exceeds net revenues minus any recoupment under subdivision (a)(4)(B) of this section plus miscellaneous funds calculated under § 6-20-2308(b)(1)(A).

(d) The sum of subsections (a)-(c) of this section shall be the total state aid allocated and funded to school districts pursuant to this section.

(e)(1) Funds distributed to school districts under subsection (b) of this section shall be expended on:

(A) The students within each category of special needs for which the funds were allocated;

(B) Any students within any category of special needs under subsection (b) of this section as permitted by rules issued by the State Board of Education; or

(C) If the Division of Elementary and Secondary Education determines that a school district's expenditure of funds allocated under subsection (b) of this section would result in the school district's losing funding under any federal law, then the funds allocated to a school district under subsection (b) of this section may be expended for other academic programs or salaries as permitted by the Division of Elementary and Secondary Education.

(2) On June 30, 2012, and on June 30 of each school year thereafter, if the total aggregate balance of all state categorical fund sources exceeds twenty percent (20%) of the school district's total aggregate annual state categorical fund allocations for the current school year, the school district shall reduce the total balance by ten percent (10%) each year until the school district's June 30 balance of aggregate annual categorical fund sources is twenty percent (20%) or less of the total aggregate annual state categorical fund allocations for the current school year.

(3) A school district may transfer funds received from any categorical fund source to another categorical fund source.

(4)(A) The Division of Elementary and Secondary Education shall monitor on a yearly basis each school district's compliance with the requirements of this subsection.

(B) If a school district fails to comply with the requirements of this subsection during a school year, the Division of Elementary and Secondary Education may in the following school year withhold from that school district's categorical funding allocation an amount equal to the amount required to be spent by the school district in order to be in compliance with the requirements of this subsection.

(C) The Division of Elementary and Secondary Education may redistribute amounts withheld under this subsection to other school districts entitled to receive categorical funding allocations.

(f) In order for a school district to be entitled to state funds under the provisions of this subchapter, the school district shall satisfy the following requirements:

(1) Expenditures for any fiscal year shall not exceed the legal revenues for that fiscal year;

(2) The school district shall maintain records and make reports relative to attendance, receipts, and disbursements and other reports as required by the Division of Elementary and Secondary Education for the administration of this subchapter;

(3) The school district shall maintain proper financial records in accordance with the state's school accounting manual and rules promulgated by the State Board of Education;

(4)(A) Each school year the school district shall file with the State Board of Education a salary schedule for its licensed employees that recognizes a minimum level of training and experience.

(B) The schedule shall reflect the actual pay practices of the school district, including all fringe benefits.

(C) Salary increments for experience or education, or both, shall be identified on the schedule; and

(5)(A) All pupil attendance records shall be kept in their original form and shall be public records.

(B) The records shall be kept according to law and rules on paper or electronic forms either furnished or approved by the Division of Elementary and Secondary Education.

(C) After the school term has ended, the superintendent of the school district shall:

(i) Keep the original attendance records on file for a period of three (3) school years; and

(ii) Make the original attendance records available for monitoring purposes during any day of the school term for the teachers or other persons designated to keep attendance.

(g)(1) By the end of each school year, each school district shall submit to the Division of Elementary and Secondary Education a report listing each program upon which funds allocated under subsection (b) of this section were expended, the amount expended, and any other information required by the Division of Elementary and Secondary Education.

(2) The Division of Elementary and Secondary Education shall develop appropriate reporting forms for use by school districts.

History. Acts 2003 (2nd Ex. Sess.), No. 59, § 1; 2005, No. 2283, § 2; 2006 (1st Ex. Sess.), No. 19, § 3; 2006 (1st Ex. Sess.), No. 21, § 1; 2006 (1st Ex. Sess.), No. 30, § 1; 2006 (1st Ex. Sess.), No. 31, § 1; 2007, No. 272, §§ 3, 4, 6; 2007, No. 273, § 1; 2007, No. 461, §§ 2, 3; 2007, No. 811, § 2; 2007, No. 1590, §§ 1, 2; 2009, No. 965, § 1; 2009, No. 1186, § 1; 2009, No. 1369, § 1; 2009, No. 1397, § 4; 2009, No. 1469, §§ 16, 17; 2009, No. 1474, § 1; 2009, No. 1501, § 1; 2011, No. 633, § 1; 2011, No. 981, § 12; 2011, No. 993, § 2; 2011, 1039, §§ 2-4; 2011, No. 1209, § 9; 2011, No. 1220, §§ 1-4; 2013, No. 322, § 3; 2013, No. 420, § 6; 2013, No. 557, § 2; 2013, No. 1138, § 52; 2013, No. 1467, §§ 1-5; 2013, No. 1473, § 1; 2013 (1st Ex. Sess.), No. 2, § 4; 2015, No. 846, § 28; 2015, No. 994, § 1; 2015, No. 1248, §§ 1-5; 2017, No. 427, § 1; 2017, No. 741, §§ 6, 7; 2017, No. 743, §§ 1-5; 2017, No. 936, §§ 51-53; 2019, No. 179, § 2; 2019, No. 315, §§ 299, 300; 2019, No. 532, § 1; 2019, No. 667, §§ 1-4; 2019, No. 757,

§§ 49, 50; 2019, No. 910, §§ 1676-1694; 2019, No. 1082, § 4; 2019, No. 1083, § 3.

A.C.R.C. Notes. Acts 2019, No. 179, § 1, provided: "Legislative intent. It is the intent of the General Assembly that:

"(1) Funding for secondary vocational area centers should reflect a number of fast-changing factors, such as regional and statewide workforce priorities, as well as demand on an industry-by-industry basis;

"(2) The definition of 'full time equivalent students' and the funding level tied to the number of full time equivalent students be aligned with a regulatory system that allows the Department of Career Education to monitor and adjust these terms in response to the changing business environment;

"(3) The current funding structure of three thousand two hundred fifty dollars (\$3,250) per full time equivalent student be discontinued in favor of establishing a tiered funding structure for distributing vocational center aid determined by the Department of Career Education and ap-

proved by the Career Education and Workforce Development Board; and

“(4) A tiered funding structure for distributing vocational center aid determined by the Department of Career Education and approved by the Career Education and Workforce Development Board take into account the different funding needs and costs of individual programs of study or the workforce needs of the State of Arkansas”.

Amendments. The 2019 amendment by No. 179 rewrote (b)(2)(B).

The 2019 amendment by No. 315 substituted “rules” for “regulations” in (f)(3) and (f)(5)(B).

The 2019 amendment by No. 532, in the introductory language (b)(4)(C)(i)(b), substituted “for the programs” for “only on the programs” and substituted “including without limitation” for “which shall include, but are not limited to”; in (b)(4)(C)(i)(b)(2), inserted “without limitation”; rewrote (b)(4)(C)(i)(b)(8) and (b)(4)(C)(i)(b)(14); added (b)(4)(C)(i)(b)(18)-(19); deleted former (b)(4)(C)(ii)-(iii); redesignated former (b)(4)(C)(iv)(a) as (b)(4)(C)(ii); in (b)(4)(C)(ii), substituted “plan required under § 6-15-2914” for “school level improvement plan”, deleted “has met the requirements of subdivisions (b)(4)(C)(ii) and (iii) of this section” following “is provided”, substituted “state categorical funds” for “student categorical funds”, and added “for up to two (2) years”; deleted former (b)(4)(C)(iv)(b) and (b)(4)(C)(v); redesignated former (b)(4)(C)(vi)-(viii) as (b)(4)(C)(iii)-(v); deleted (b)(4)(C)(ix); redesignated former (b)(4)(C)(x) as (b)(4)(C)(vi); deleted (b)(4)(C)(xi); redesignated former (b)(4)(C)(xii) as (b)(4)(C)(vii); and updated an internal reference and made stylistic changes.

The 2019 amendment by No. 667, in (a)(2)(A), substituted “2019-2020” for “2017-2018”, and “six thousand eight hundred ninety-nine dollars (\$6,899)” for “six thousand seven hundred thirteen dollars (\$6,713)”; in (a)(2)(B), substituted “2020-

2021” for “2018-2019” and “seven thousand eighteen dollars (\$7,018)” for “six thousand seven hundred eighty-one dollars (\$6,781)”; in (b)(2)(A)(i), substituted “four thousand seven hundred dollars (\$4,700)” for “four thousand six hundred forty dollars (\$4,640)”; in (b)(3)(A), substituted “the 2019-2020” for “each”, and “three hundred forty-five dollars (\$345)” for “three hundred thirty-eight dollars (\$338)”; inserted “public” in (b)(3)(B) and (b)(3)(C); added (b)(3)(D); in (b)(5)(A), substituted “the 2019-2020” for “each”; inserted (b)(5)(B) and redesignated former (b)(5)(B) and (b)(5)(C) as (b)(5)(C) and (b)(5)(D); in (b)(5)(D)(i), added “For the 2019-2020 and 2020-2021 school years”, inserted “up to twelve million five hundred thousand dollars (\$12,500,000)”, inserted “and (B)”, and substituted “subdivisions” for “subdivision”; and updated an internal reference.

The 2019 amendment by No. 757 substituted “school-level improvement plan” for “school improvement plan” in (b)(4)(C)(iii) [now deleted]; and substituted “special education high-cost occurrences” for “special education-catastrophic occurrences” in the introductory language of (c) and in (c)(1).

The 2019 amendment by No. 910 substituted “Division of Elementary and Secondary Education” for “Department of Education” throughout the section; substituted “Division of Career and Technical Education” for “Department of Career Education” in (b)(4)(C)(i)(b)(16); and substituted “Commissioner of Elementary and Secondary Education” for “Commissioner of Education” in (b)(4)(C)(iv)(a) [now (b)(4)(C)(ii)].

The 2019 amendment by No. 1082 added (b)(4)(C)(i)(c).

The 2019 amendment by No. 1083 substituted “Enhanced Student Achievement Funding” for “national school lunch state categorical funding” and “public school district” for “school district” throughout (b)(4)(A) and (b)(4)(B).

6-20-2306. Division of Elementary and Secondary Education to provide funding — Adjustments for overpayments.

(a) If the Division of Elementary and Secondary Education determines that an overpayment has been made to a school district under any appropriation authorized by this subchapter, the division may:

- (1) Withhold the overpayment from subsequent state funding;
 - (2) Transfer the amount withheld for the overpayment to the line item appropriation from which the overpayment was initially made; or
 - (3) Request a refund from the school district in the amount of the overpayment.
- (b) The school district shall comply as directed by the division.

History. Acts 2003 (2nd Ex. Sess.), No. 59, § 1; 2009, No. 376, § 43; 2019, No. 910, § 1695.

Amendments. The 2019 amendment substituted “Division of Elementary and

Secondary Education” for “Department of Education” in the section heading and in the introductory language of (a); and substituted “division” for “department” in the introductory language of (a) and in (b).

6-20-2308. Calculation of miscellaneous funds.

(a) For the purpose of making an initial calculation of state foundation funding aid, the Division of Elementary and Secondary Education shall calculate the miscellaneous funds of a school district as:

(1) The aggregate amount of miscellaneous funds a school district received in the calendar year immediately preceding the beginning of the current school fiscal year; multiplied by

(2) The ratio of the uniform rate of tax to the school district’s total millage rate in effect as of January 1 of the calendar year in which the school district received the miscellaneous funds.

(b)(1) Except as provided under subdivision (b)(2) of this section, for a school district that receives state foundation funding aid and receives an aggregate amount of miscellaneous funds during the calendar year in which the current school fiscal year began that is less than the aggregate amount of miscellaneous funds the school district received in the calendar year immediately preceding the beginning of the current school fiscal year, by the end of the school fiscal year the division shall distribute to the school district an amount equal to the difference between:

(A) The amount of miscellaneous funds calculated for the calendar year in which the current school fiscal year began; and

(B) The amount of miscellaneous funds calculated for the calendar year immediately preceding the beginning of the current school fiscal year.

(2) The sum of the following amounts shall not exceed the foundation funding amount under § 6-20-2305(a)(2):

(A) State foundation funding aid for the current school fiscal year;

(B) The school district’s miscellaneous funds calculated for the calendar year in which the school fiscal year began;

(C) Ninety-eight percent (98%) of the uniform rate of tax multiplied by the property assessment of the school district;

(D) A distribution under subdivision (b)(1) of this section; and

(E) A distribution or recoupment under § 6-20-2305(a)(4).

(c)(1) Beginning with the 2014-2015 school fiscal year, the division shall recoup an overpayment of state funding under the authority provided by § 6-20-2306 for a school district that receives:

(A) State foundation funding aid; and

(B) An aggregate amount of miscellaneous funds for the calendar year in which the current school fiscal year began that is greater than the aggregate amount of miscellaneous funds it received in the calendar year immediately preceding the beginning of the current school fiscal year.

(2) The division shall recoup from the school district an amount equal to the difference between:

(A) The amount of miscellaneous funds calculated for the calendar year in which the current school fiscal year began; and

(B) The amount of miscellaneous funds calculated for the calendar year immediately preceding the beginning of the current school fiscal year.

(3) A recoupment from a school district under this subsection shall not exceed the amount of state foundation funding aid distributed to the school district for the school fiscal year on which the recoupment is based.

History. Acts 2013, No. 322, § 4; 2019, No. 910, §§ 1696-1699.

Amendments. The 2019 amendment substituted “Division of Elementary and

Secondary Education” for “Department of Education” in the introductory language of (a); and substituted “division” for “department” throughout the section.

6-20-2309. Enhanced transportation funding.

For the 2019-2020 school year and the 2020-2021 school year, in addition to the foundation funding provided to a school district under § 6-20-2305(a)(2), the Division of Elementary and Secondary Education shall distribute enhanced transportation funding to school districts each school year in the following amounts:

101000	DEWITT SCHOOL DISTRICT	\$0
104000	STUTTGART SCHOOL DISTRICT	\$0
201000	CROSSETT SCHOOL DISTRICT	\$0
203000	HAMBURG SCHOOL DISTRICT	\$60,295
302000	COTTER SCHOOL DISTRICT	\$0
303000	MOUNTAIN HOME SCHOOL DISTRICT	\$25,911
304000	NORFORK SCHOOL DISTRICT	\$104,796
401000	BENTONVILLE SCHOOL DISTRICT	\$0
402000	DECATUR SCHOOL DISTRICT	\$0
403000	GENTRY SCHOOL DISTRICT	\$0
404000	GRAVETTE SCHOOL DISTRICT	\$17,117
405000	ROGERS SCHOOL DISTRICT	\$0
406000	SILAM SPRINGS SCHOOL DISTRICT	\$0
407000	PEA RIDGE SCHOOL DISTRICT	\$0
501000	ALPENA SCHOOL DISTRICT	\$24,246
502000	BERGMAN SCHOOL DISTRICT	\$0
503000	HARRISON SCHOOL DISTRICT	\$0
504000	OMAHA SCHOOL DISTRICT	\$51,867

505000	VALLEY SPRINGS SCHOOL DISTRICT	\$5,781
506000	LEAD HILL SCHOOL DISTRICT	\$112,425
601000	HERMITAGE SCHOOL DISTRICT	\$47,253
602000	WARREN SCHOOL DISTRICT	\$0
701000	HAMPTON SCHOOL DISTRICT	\$33,573
801000	BERRYVILLE SCHOOL DISTRICT	\$18,114
802000	EUREKA SPRINGS SCHOOL DISTRICT	\$0
803000	GREEN FOREST SCHOOL DISTRICT	\$0
901000	DERMOTT SCHOOL DISTRICT	\$53,863
903000	LAKESIDE SCHOOL DIST. (CHICOT)	\$82,635
1002000	ARKADELPHIA SCHOOL DISTRICT	\$2,631
1003000	GURDON SCHOOL DISTRICT	\$43,154
1101000	CORNING SCHOOL DISTRICT	\$60,720
1104000	PIGGOTT SCHOOL DISTRICT	\$0
1106000	RECTOR SCHOOL DISTRICT	\$73
1201000	CONCORD SCHOOL DISTRICT	\$93,581
1202000	HEBER SPRINGS SCHOOL DISTRICT	\$0
1203000	QUITMAN SCHOOL DISTRICT	\$0
1204000	WEST SIDE SCHOOL DIST. (CLEBURNE)	\$0
1304000	WOODLAWN SCHOOL DISTRICT	\$24,379
1305000	CLEVELAND COUNTY SCHOOL DISTRICT	\$9,201
1402000	MAGNOLIA SCHOOL DISTRICT	\$21,526
1408000	EMERSON-TAYLOR-BRADLEY SCHOOL DISTRICT	\$0
1503000	NEMO VISTA SCHOOL DISTRICT	\$0
1505000	WONDERVIEW SCHOOL DISTRICT	\$16,462
1507000	SOUTH CONWAY COUNTY SCHOOL DISTRICT	\$7,675
1601000	BAY SCHOOL DISTRICT	\$0
1602000	WESTSIDE CONS. SCH. DIST. (CRAIGHEAD)	\$22,962
1603000	BROOKLAND SCHOOL DISTRICT	\$0
1605000	BUFFALO IS. CENTRAL SCH. DIST.	\$0
1608000	JONESBORO SCHOOL DISTRICT	\$0
1611000	NETTLETON SCHOOL DISTRICT	\$17,312
1612000	VALLEY VIEW SCHOOL DISTRICT	\$0
1613000	RIVERSIDE SCHOOL DISTRICT	\$0
1701000	ALMA SCHOOL DISTRICT	\$0
1702000	CEDARVILLE SCHOOL DISTRICT	\$66,366
1703000	MOUNTAINBURG SCHOOL DISTRICT	\$103,162
1704000	MULBERRY PVB SCHOOL DISTRICT	\$0
1705000	VAN BUREN SCHOOL DISTRICT	\$0
1802000	EARLE SCHOOL DISTRICT	\$54,471
1803000	WEST MEMPHIS SCHOOL DISTRICT	\$0
1804000	MARION SCHOOL DISTRICT	\$5,539

1901000	CROSS COUNTY SCHOOL DISTRICT	\$45,233
1905000	WYNNE SCHOOL DISTRICT	\$0
2002000	FORDYCE SCHOOL DISTRICT	\$0
2104000	DUMAS SCHOOL DISTRICT	\$0
2105000	MCGEHEE SCHOOL DISTRICT	\$3,675
2202000	DREW CENTRAL SCHOOL DISTRICT	\$61,475
2203000	MONTICELLO SCHOOL DISTRICT	\$0
2301000	CONWAY SCHOOL DISTRICT	\$0
2303000	GREENBRIER SCHOOL DISTRICT	\$0
2304000	GUY-PERKINS SCHOOL DISTRICT	\$0
2305000	MAYFLOWER SCHOOL DISTRICT	\$0
2306000	MT. VERNON/ENOLA SCHOOL DISTRICT	\$5,980
2307000	VILONIA SCHOOL DISTRICT	\$9,489
2402000	CHARLESTON SCHOOL DISTRICT	\$0
2403000	COUNTY LINE SCHOOL DISTRICT	\$64,254
2404000	OZARK SCHOOL DISTRICT	\$18,881
2501000	MAMMOTH SPRING SCHOOL DISTRICT	\$49,654
2502000	SALEM SCHOOL DISTRICT	\$79,381
2503000	VIOLA SCHOOL DISTRICT	\$120,815
2601000	CUTTER-MORNING STAR SCHOOL DISTRICT	\$0
2602000	FOUNTAIN LAKE SCHOOL DISTRICT	\$0
2603000	HOT SPRINGS SCHOOL DISTRICT	\$0
2604000	JESSIEVILLE SCHOOL DISTRICT	\$0
2605000	LAKE HAMILTON SCHOOL DISTRICT	\$0
2606000	LAKESIDE SCHOOL DIST. (GARLAND)	\$0
2607000	MOUNTAIN PINE SCHOOL DISTRICT	\$41,072
2703000	POYEN SCHOOL DISTRICT	\$0
2705000	SHERIDAN SCHOOL DISTRICT	\$0
2803000	MARMADUKE SCHOOL DISTRICT	\$7,970
2807000	GREENE COUNTY TECH SCHOOL DISTRICT	\$0
2808000	PARAGOULD SCHOOL DISTRICT	\$0
2901000	BLEVINS SCHOOL DISTRICT	\$0
2903000	HOPE SCHOOL DISTRICT	\$0
2906000	SPRING HILL SCHOOL DISTRICT	\$0
3001000	BISMARCK SCHOOL DISTRICT	\$84,856
3002000	GLEN ROSE SCHOOL DISTRICT	\$0
3003000	MAGNET COVE SCHOOL DIST.	\$0
3004000	MALVERN SCHOOL DISTRICT	\$26,571
3005000	OUACHITA SCHOOL DISTRICT	\$0
3102000	DIERKS SCHOOL DISTRICT	\$37,914
3104000	MINERAL SPRINGS SCHOOL DISTRICT	\$0
3105000	NASHVILLE SCHOOL DISTRICT	\$0
3201000	BATESVILLE SCHOOL DISTRICT	\$36,385

3209000	SOUTHSIDE SCHOOL DISTRICT (INDEPENDENCE)	\$0
3211000	MIDLAND SCHOOL DISTRICT	\$47,872
3212000	CEDAR RIDGE SCHOOL DISTRICT	\$73,912
3301000	CALICO ROCK SCHOOL DISTRICT	\$19,654
3302000	MELBOURNE SCHOOL DISTRICT	\$71,653
3306000	IZARD COUNTY CONSOLIDATED SCHOOL DISTRICT	\$146,754
3403000	NEWPORT SCHOOL DISTRICT	\$0
3405000	JACKSON CO. SCHOOL DISTRICT	\$1,805
3502000	DOLLARWAY SCHOOL DISTRICT	\$83,150
3505000	PINE BLUFF SCHOOL DISTRICT	\$3,969
3509000	WATSON CHAPEL SCHOOL DISTRICT	\$47,591
3510000	WHITE HALL SCHOOL DISTRICT	\$0
3601000	CLARKSVILLE SCHOOL DISTRICT	\$0
3604000	LAMAR SCHOOL DISTRICT	\$0
3606000	WESTSIDE SCHOOL DIST. (JOHNSON)	\$18,693
3704000	LAFAYETTE COUNTY SCHOOL DISTRICT	\$137,432
3804000	HOXIE SCHOOL DISTRICT	\$0
3806000	SLOAN-HENDRIX SCHOOL DISTRICT	\$0
3809000	HILLCREST SCHOOL DISTRICT	\$0
3810000	LAWRENCE COUNTY SCHOOL DISTRICT	\$0
3904000	LEE COUNTY SCHOOL DISTRICT	\$59,384
4003000	STAR CITY SCHOOL DISTRICT	\$67,480
4101000	ASHDOWN SCHOOL DISTRICT	\$68,722
4102000	FOREMAN SCHOOL DISTRICT	\$0
4201000	BOONEVILLE SCHOOL DISTRICT	\$23,921
4202000	MAGAZINE SCHOOL DISTRICT	\$22,012
4203000	PARIS SCHOOL DISTRICT	\$17,783
4204000	SCRANTON SCHOOL DISTRICT	\$5,180
4301000	LONOKE SCHOOL DISTRICT	\$0
4302000	ENGLAND SCHOOL DISTRICT	\$17,152
4303000	CARLISLE SCHOOL DISTRICT	\$8,993
4304000	CABOT SCHOOL DISTRICT	\$0
4401000	HUNTSVILLE SCHOOL DISTRICT	\$31,242
4501000	FLIPPIN SCHOOL DISTRICT	\$0
4502000	YELLVILLE-SUMMIT SCHOOL DIST.	\$68,646
4602000	GENOA CENTRAL SCHOOL DISTRICT	\$0
4603000	FOUKE SCHOOL DISTRICT	\$85,220
4605000	TEXARKANA SCHOOL DISTRICT	\$0
4701000	ARMOREL SCHOOL DISTRICT	\$0
4702000	BLYTHEVILLE SCHOOL DISTRICT	\$0
4706000	RIVERCREST SCHOOL DIST.	\$43,339
4708000	GOSNELL SCHOOL DISTRICT	\$12,761

4712000	MANILA SCHOOL DISTRICT	\$0
4713000	OSCEOLA SCHOOL DISTRICT	\$0
4801000	BRINKLEY SCHOOL DISTRICT	\$4,288
4802000	CLARENDON SCHOOL DISTRICT	\$0
4901000	CADDO HILLS SCHOOL DISTRICT	\$148,828
4902000	MOUNT IDA SCHOOL DISTRICT	\$49,776
5006000	PRESCOTT SCHOOL DISTRICT	\$0
5008000	NEVADA SCHOOL DISTRICT	\$35,136
5102000	JASPER SCHOOL DISTRICT	\$0
5106000	DEER/MT. JUDEA SCHOOL DISTRICT	\$0
5201000	BEARDEN SCHOOL DISTRICT	\$54,835
5204000	CAMDEN FAIRVIEW SCHOOL DISTRICT	\$66,684
5205000	HARMONY GROVE SCHOOL DISTRICT (OUACHITA)	\$0
5301000	EAST END SCHOOL DISTRICT	\$11,565
5303000	PERRYVILLE SCHOOL DISTRICT	\$41,602
5401000	BARTON-LEXA SCHOOL DISTRICT	\$0
5403000	HELENA/W. HELENA SCHOOL DIST.	\$48,197
5404000	MARVELL-ELAINE SCHOOL DISTRICT	\$0
5502000	CENTERPOINT SCHOOL DISTRICT	\$32,842
5503000	KIRBY SCHOOL DISTRICT	\$40,592
5504000	SOUTH PIKE COUNTY SCHOOL DISTRICT	\$31,636
5602000	HARRISBURG SCHOOL DISTRICT	\$36,518
5604000	MARKED TREE SCHOOL DISTRICT	\$0
5605000	TRUMANN SCHOOL DISTRICT	\$0
5608000	EAST POINSETT CO. SCHOOL DIST.	\$0
5703000	MENA SCHOOL DISTRICT	\$60,868
5706000	OUACHITA RIVER SCHOOL DISTRICT	\$0
5707000	COSSATOT RIVER SCHOOL DISTRICT	\$0
5801000	ATKINS SCHOOL DISTRICT	\$26,988
5802000	DOVER SCHOOL DISTRICT	\$26,874
5803000	HECTOR SCHOOL DISTRICT	\$99,997
5804000	POTTSVILLE SCHOOL DISTRICT	\$0
5805000	RUSSELLVILLE SCHOOL DISTRICT	\$0
5901000	DES ARC SCHOOL DISTRICT	\$22,991
5903000	HAZEN SCHOOL DISTRICT	\$62,716
6001000	LITTLE ROCK SCHOOL DISTRICT	\$65,862
6002000	N. LITTLE ROCK SCHOOL DISTRICT	\$0
6003000	PULASKI COUNTY SPECIAL SCHOOL DIS- TRICT	\$0
6004000	JACKSONVILLE NORTH PULASKI SCHOOL DISTRICT	\$87,187
6102000	MAYNARD SCHOOL DISTRICT	\$58,172
6103000	POCAHONTAS SCHOOL DISTRICT	\$0

6201000	FORREST CITY SCHOOL DISTRICT	\$0
6205000	PALESTINE-WHEATLEY SCH. DIST.	\$0
6301000	BAUXITE SCHOOL DISTRICT	\$0
6302000	BENTON SCHOOL DISTRICT	\$0
6303000	BRYANT SCHOOL DISTRICT	\$0
6304000	HARMONY GROVE SCH. DIST. (SALINE)	\$0
6401000	WALDRON SCHOOL DISTRICT	\$0
6502000	SEARCY COUNTY SCHOOL DISTRICT	\$8,561
6505000	OZARK MOUNTAIN SCHOOL DISTRICT	\$0
6601000	FORT SMITH SCHOOL DISTRICT	\$0
6602000	GREENWOOD SCHOOL DISTRICT	\$117
6603000	HACKETT SCHOOL DISTRICT	\$0
6605000	LAVACA SCHOOL DISTRICT	\$0
6606000	MANSFIELD SCHOOL DISTRICT	\$51,141
6701000	DE QUEEN SCHOOL DISTRICT	\$0
6703000	HORATIO SCHOOL DISTRICT	\$737
6802000	CAVE CITY SCHOOL DISTRICT	\$34,174
6804000	HIGHLAND SCHOOL DISTRICT	\$42,378
6901000	MOUNTAIN VIEW SCHOOL DISTRICT	\$0
7001000	EL DORADO SCHOOL DISTRICT	\$0
7003000	JUNCTION CITY SCHOOL DISTRICT	\$91,056
7007000	PARKERS CHAPEL SCHOOL DIST.	\$0
7008000	SMACKOVER-NORPHLET	\$0
7009000	STRONG-HUTTIG SCHOOL DISTRICT	\$101,177
7102000	CLINTON SCHOOL DISTRICT	\$23,915
7104000	SHIRLEY SCHOOL DISTRICT	\$54,906
7105000	SOUTH SIDE SCH. DIST. (VAN BUREN)	\$0
7201000	ELKINS SCHOOL DISTRICT	\$23,158
7202000	FARMINGTON SCHOOL DISTRICT	\$0
7203000	FAYETTEVILLE SCHOOL DISTRICT	\$0
7204000	GREENLAND SCHOOL DISTRICT	\$0
7205000	LINCOLN CONSOLIDATED SCHOOL DISTRICT	\$53,454
7206000	PRAIRIE GROVE SCHOOL DISTRICT	\$0
7207000	SPRINGDALE SCHOOL DISTRICT	\$0
7208000	WEST FORK SCHOOL DISTRICT	\$48,426
7301000	BALD KNOB SCHOOL DISTRICT	\$0
7302000	BEEBE SCHOOL DISTRICT	\$0
7303000	BRADFORD SCHOOL DISTRICT	\$22,442
7304000	WHITE CO. CENTRAL SCHOOL DIST.	\$0
7307000	RIVERVIEW SCHOOL DISTRICT	\$0
7309000	PANGBURN SCHOOL DISTRICT	\$43,942
7310000	ROSE BUD SCHOOL DISTRICT	\$89,778
7311000	SEARCY SCHOOL DISTRICT	\$0

7401000	AUGUSTA SCHOOL DISTRICT	\$0
7403000	MCCRORY SCHOOL DISTRICT	\$0
7503000	DANVILLE SCHOOL DISTRICT	\$0
7504000	DARDANELLE SCHOOL DISTRICT	\$0
7509000	WESTERN YELL CO. SCHOOL DIST.	\$31,018
7510000	TWO RIVERS SCHOOL DISTRICT	\$100,452

History. Acts 2017, No. 743, § 6; 2019, No. 667, § 5; 2019, No. 910, § 1700.

Amendments. The 2019 amendment by No. 667 substituted “2019-2020” for “2017-2018” and “2020-2021” for “2018-2019” in the introductory language; and updated the table.

The 2019 amendment by No. 910 substituted “Division of Elementary and Secondary Education” for “Department of Education” in the introductory language.

SUBCHAPTER 25 — ARKANSAS PUBLIC SCHOOL ACADEMIC FACILITIES
FUNDING ACT

SECTION.	SECTION.
6-20-2502. Definitions.	6-20-2511. High-growth school districts — Definitions.
6-20-2503. Bonded debt assistance — Definitions.	6-20-2516. Academic Facilities Review Board.
6-20-2507. Academic Facilities Partnership Program.	6-20-2517. Nursing center.
6-20-2508. Academic Facilities Catastrophic Program.	6-20-2518. [Repealed.]

Effective Dates. Acts 2019, No. 910, § 6346(b); July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

6-20-2502. Definitions.

As used in this subchapter:

(1)(A) For fiscal years 2024-2025 and each year thereafter, “academic facilities wealth index” means a percentage derived from the following computations:

(i) Determine the value of one (1) mill per student in each school district as follows:

(a) Multiply the value of one (1) mill by the total assessed valuation of taxable real, personal, and utility property in the school district as shown by the applicable county assessment for the most recent year; and

(b) Divide the product from subdivision (1)(A)(i)(a) of this section by the largest average daily membership of a school district over the previous decade;

(ii)(a) Calculate each school district's relative median income by dividing the household median income for the area served by each school district by the household median income of the school district with the highest household median income.

(b) The household median income used in subdivision (1)(A)(ii)(a) of this section shall be the household median income as estimated by the United States Bureau of the Census's American Community Survey;

(iii) Calculate the median income per mill value by multiplying each school district's value of one (1) mill per student as calculated under subdivision (1)(A)(i) of this section by the school district's relative median income as calculated under subdivision (1)(A)(ii)(a) of this section; and

(iv) Identify the school district at the ninety-fifth percentile according to the value calculated under subdivision (1)(A)(iii) of this section by:

(a) Determining student millage rankings by listing the median income per mill value under subdivision (1)(A)(iii) of this section for each school district from districts with the lowest median income per mill value to school districts with the highest median income per mill value;

(b) Allocating the student millage rankings into percentiles with the first percentile containing the one percent (1%) of students based on the prior year average daily membership with the lowest value per mill and the one-hundredth percentile containing the one percent (1%) of students with the highest value per mill;

(c) Dividing the median income per mill value as computed under subdivision (1)(A)(iii) of this section by the amount corresponding to the ninety-fifth percentile of the student millage rankings under subdivision (1)(A)(iv)(b) of this section; and

(d) Every school district with a wealth index of one (1.00) or greater will be funded at the same level as the first school district with a wealth index below one (1.00), except that funding under this subdivision (1)(A)(iv)(d) shall not exceed the amount of funding provided to a school district with a wealth index of nine hundred ninety-five thousandths (0.995).

(B) For fiscal years 2022-2023, "academic facilities wealth index" means a percentage derived from the following computations:

(i) Determine the value of one (1) mill per student in each school district as follows:

(a) Multiply the value of one (1) mill by the total assessed valuation of taxable real, personal, and utility property in the school

district as shown by the applicable county assessment for the most recent year; and

(b) Divide the product from subdivision (1)(B)(i)(a) of this section by the prior year average daily membership of the school district or the prior three-year average of the school district's average daily membership, whichever is greater;

(ii) Determine student millage rankings by listing the computation under subdivision (1)(B)(i) of this section for each school district from school districts with the lowest value per mill to school districts with the highest value per mill;

(iii) Allocate the student millage rankings into percentiles with the first percentile containing the one percent (1%) of students with the lowest value per mill and the one-hundredth percentile containing the one percent (1%) of students with the highest value per mill;

(iv) Divide the value of one (1) mill per student in each school district as computed under subdivision (1)(B)(i) of this section by the amount corresponding to the ninety-fifth percentile of the student millage rankings under subdivision (1)(B)(iii) of this section;

(v) Every school district with a wealth index of one (1.00) or greater will be funded at the same level as the first school district with a wealth index below one (1.00), except that funding under this subdivision (1)(B)(v) shall not exceed the amount of funding provided to a school district with a wealth index of nine hundred ninety-five thousandths (0.995);

(vi) Subtract the academic facilities wealth index as determined under subdivisions (1)(B)(iv) and (v) of this section from the academic facilities wealth index as determined under subdivision (1)(A)(iv) of this section;

(vii) Divide the result from subdivision (1)(B)(vi) of this section by two (2); and

(viii) Add the value from subdivision (1)(B)(iv) of this section with the number calculated in subdivision (1)(B)(vii) of this section.

(C)(i) The percentage derived from the computation under subdivision (1)(A)(iv) of this section is the academic facilities wealth index for a school district, which shall be computed annually and used to determine the amount of the school district's share of financial participation in a local academic facilities project eligible for state financial participation under priorities established by the Division of Public School Academic Facilities and Transportation.

(ii) The state's share of financial participation in a local academic facilities project eligible for state financial participation under priorities established by the division is the percentage derived from subtracting the school district's percentage share of financial participation determined under subdivision (1)(C)(i) of this section from one hundred percent (100%).

(D) A school district identified as a high-growth school district as defined in § 6-20-2511 shall receive the lesser of the wealth index as calculated under the formulas under subdivisions (1)(A) and (B) of

this section until the school district fails to meet the definition of a high-growth school district as defined in § 6-20-2511 for two (2) consecutive years;

(2)(A) “Academic facility” means a building or space, including related areas such as the physical plant and grounds, where students receive instruction that is an integral part of an adequate education as described in § 6-20-2302.

(B)(i) A public school building or space, including related areas such as the physical plant and grounds, used for an extracurricular activity or an organized physical activity course as defined in § 6-16-137 shall not be considered an academic facility for the purposes of this subchapter to the extent that the building, space, or related area is used for extracurricular activities or organized physical activities courses, except for physical educational training and instruction under § 6-16-132.

(ii) The division shall determine the extent to which a building, space, or related area is used for extracurricular activities or organized physical activities courses based on information supplied by the school district and, if necessary, on-site inspection.

(iii) A leased facility shall not be considered an academic facility for the purpose of this subchapter.

(C) Buildings or spaces, including related areas such as the physical plant and grounds, used for prekindergarten education shall not be considered academic facilities for purposes of this subchapter.

(D) District administration buildings and spaces, including related areas such as the physical plant and grounds, shall not be considered academic facilities for the purposes of this subchapter;

(3)(A) “Average daily membership” means the total number of days of school attended plus the total number of days absent by students in kindergarten through grade twelve (K-12) during the first three (3) quarters of each school year divided by the number of school days actually taught in the school district during that period of time rounded up to the nearest hundredth.

(B) As applied to this subchapter, students who may be counted for average daily membership are:

(i) Students who reside within the boundaries of the school district and who are enrolled in a public school operated by the school district;

(ii) Legally transferred students living outside the school district but attending a public school in the school district; and

(iii) Students who are eligible to attend and reside within the boundaries of a school district and who are enrolled in the Arkansas National Guard Youth Challenge Program, so long as the students are participants in the program;

(4) “Building” means a structure used or intended for supporting or sheltering any use or occupancy;

(5) “Facility condition index” means a methodology established by the division for comparing the cost of repairing the condition of a public school academic facility to the cost of replacing the public school

academic facility with a public school academic facility containing the same amount of square footage;

(6) "Immediate repair project" means a project involving a public school academic facility that is necessary to resolve a deficiency that presents an immediate hazard to:

(A) The health or safety of students, teachers, administrators, or staff;

(B) The integrity of the public school academic facility with regard to meeting minimum health and safety standards; or

(C) The extraordinary deterioration of the public school academic facility;

(7) "Local enhancements" means the portion of any maintenance, repair, or renovation project or new construction project that is designed to bring an academic facility or related areas such as the physical plant or grounds to a state of condition or efficiency that exceeds state academic facilities standards;

(8) "Local resources" means any moneys lawfully generated by a school district for the purpose of funding the school district's share of financial participation in any academic facilities project for which a school district is eligible to receive state financial participation under priorities established by the division;

(9) "Maintenance, repair, and renovation" means any activity or improvement to an academic facility and, if necessary, related areas such as the physical plant and grounds, that maintains, conserves, or protects the state of condition or efficiency of the academic facility;

(10) "Millage rate" means the millage rate listed in the most recent tax ordinance approved by the county quorum court under the authority of § 14-14-904;

(11)(A) "New construction" means any improvement to an academic facility and, if necessary, related areas such as the physical plant and grounds, that brings the state of condition or efficiency of the academic facility to a state of condition or efficiency better than the academic facility's current condition of completeness or efficiency.

(B) "New construction" includes additions to existing academic facilities and new academic facilities;

(12) "Project" means an undertaking in which a school district engages in:

(A) Maintenance, repair, and renovation activities with regard to an academic facility;

(B) New construction of an academic facility; or

(C) Any combination of maintenance, repair, and renovation and new construction activities with regard to an academic facility; and

(13) "Space utilization" means the number of gross square feet per student in a public school academic facility adjusted for academic program, school enrollment, grade configuration, and type of public school in accordance with rules promulgated by the Commission for Arkansas Public School Academic Facilities and Transportation.

History. Acts 2005, No. 2206, § 1; **Amendments.** The 2019 amendment 2007, No. 727, § 1; 2009, No. 1473, § 9; rewrote (1)(A) and (1)(B); and added 2011, No. 1006, §§ 6, 7; 2017, No. 935, § (1)(D).
§ 3; 2019, No. 1080, § 1.

6-20-2503. Bonded debt assistance — Definitions.

(a) As used in this section:

(1) “Eligible school district” means a school district that applied for bonded debt assistance under this section before July 1, 2005;

(2) “Foundation funding” means an amount of money specified by the General Assembly for each school year to be expended by school districts for the provision of an adequate education for each student as that amount is established in § 6-20-2305;

(3) “Miscellaneous funds” means the amount of miscellaneous funds, as defined in § 6-20-2303, calculated under § 6-20-2308(a);

(4) “Per-student revenue” means the sum of projected revenue from the uniform rate of tax and miscellaneous funds divided by the average daily membership for the school district for the previous school year;

(5) “Projected revenue from the uniform rate of tax” means in each school year ninety-eight percent (98%) of the amount of revenue available in a school district solely from the levy of the uniform rate of tax; and

(6) “State wealth index” means the result of one (1) minus the ratio derived by dividing per-student revenue by the difference between the per-student foundation funding amount under § 6-20-2305 and per-student revenue.

(b)(1) In accordance with the requirements and limitations of this section, the state shall provide eligible school districts with financial assistance for the purpose of retiring outstanding bonded indebtedness in existence as of January 1, 2005.

(2) The amount of financial assistance under this section is based on:

(A) The total amount required to satisfy a school district’s outstanding bonded indebtedness in existence as of January 1, 2005;

(B) The annual amount due on a fiscal year basis from the school district in accordance with the principal and interest payment schedule in effect and on file with the Division of Elementary and Secondary Education on January 1, 2005, for the outstanding bonded indebtedness identified under subdivision (b)(2)(A) of this section; and

(C) The calculation in subdivision (b)(3)(A) of this section.

(3)(A) The Commission for Arkansas Public School Academic Facilities and Transportation shall determine the amount of bonded debt assistance for each eligible school district as follows:

(i)(a) For the year that financial assistance under this section will be provided, ascertain the scheduled debt payment on a fiscal year basis from the principal and interest payment schedule in effect and on file with the Division of Elementary and Secondary Education on January 1, 2005, and reduce the amount of the payment by ten

percent (10%) except as provided in subdivision (b)(3)(A)(i)(b) of this section.

(b)(1) If a school district can demonstrate to the satisfaction of the commission that all or a portion of the ten-percent reduction in its scheduled debt payment under subdivision (b)(3)(A)(i)(a) of this section can be attributed to the support of academic facilities, the commission shall reverse all or a portion of the ten-percent reduction by a percentage proportionate to the amount attributable to academic facilities.

(2) A school district that applied to the commission during the 2006-2007 school year for a reversal of the ten-percent reduction but was denied the reversal by the commission due to the failure of the school district to submit timely appeals shall be entitled to receive bonded debt assistance for the relevant period of the program beginning with the 2007-2008 school year in the amount approved by the Division of Public School Academic Facilities and Transportation;

(ii) For the year that bonded debt assistance will be provided, divide the scheduled debt payment as adjusted under subdivision (b)(3)(A)(i) of this section by the total assessed valuation of taxable real, personal, and utility property in the school district as shown by the applicable county assessment for the most recent year with the result multiplied by one thousand (1,000);

(iii)(a) Multiply the calculation under subdivision (b)(3)(A)(ii) of this section by a funding factor per average daily membership that will distribute a total amount of bonded debt assistance no less than the total amount of funds that would have been distributed during fiscal year 2005 if every school district in the state had received an amount of bonded debt assistance equal to an amount calculated by applying the debt service funding supplement formula under the Supplemental School District Funding Act of 2003, § 6-20-2401 et seq. [repealed], during Fiscal Year 2005 with a funding factor of eighteen dollars and three cents (\$18.03).

(b) The funding factor for each fiscal year after Fiscal Year 2006 shall be equal to the funding factor derived for Fiscal Year 2006 under subdivision (b)(3)(A)(iii)(a) of this section; and

(iv) Multiply the calculation under subdivision (b)(3)(A)(iii) of this section by the state wealth index.

(B) As the amount of bonded debt assistance under this section decreases to correlate with reductions in principal and interest payments and increases in property assessments, the commission shall distribute any remaining funded bonded debt assistance appropriation through the Educational Facilities Partnership Fund Account in accordance with rules promulgated by the commission.

(4)(A) The commission shall determine the amount of bonded debt assistance for each eligible school district no later than July 15 of each year.

(B)(i) Bonded debt assistance under this subsection is payable to each eligible school district in two (2) installments.

(ii) The commission shall arrange for the payment of the first installment by August 1 of each year and the second installment by February 1 of each year.

(5) For tracking purposes, the school district shall account for the funds received as state bonded debt assistance under this section as restricted funds and shall account for the funds in accordance with provisions of law, including, without limitation, the Arkansas Educational Financial Accounting and Reporting Act of 2004, § 6-20-2201 et seq., and rules established by the commission.

(c)(1)(A) Nothing in this section shall prohibit a school district from refunding bonds that were issued and outstanding as of January 1, 2005.

(B) If a school district qualifies for bonded debt assistance under this section, the amount of bonded debt assistance under this section shall not be altered or reduced as a result of refunding the bonds that were issued and outstanding as of January 1, 2005, and the bonded debt assistance shall continue after the refunding based on the principal and interest payment schedule in effect and on file with the Division of Elementary and Secondary Education on January 1, 2005.

(2) Nothing in this subsection shall prevent the annual adjustment of bonded debt assistance under this section in accordance with annual variations in the state wealth index and the school district's principal and interest payment schedule in effect and on file with the Division of Elementary and Secondary Education on January 1, 2005.

(d)(1) The state shall not assume any debt of a school district or incur any obligation with regard to a school district's bonded indebtedness by providing the bonded debt assistance described in this section.

(2) The school district receiving bonded debt assistance under this section is and will remain independently liable for all outstanding indebtedness.

(e) The funded general facilities funding appropriation shall be distributed to the Employee Benefits Division for the exclusive benefit of public school employees participating in the State and Public School Life and Health Insurance Program.

(f) The funded supplemental millage appropriation shall be distributed to the Employee Benefits Division for the exclusive benefit of public school employees participating in the State and Public School Life and Health Insurance Program.

(g) Within thirty (30) days after the satisfaction of a school district's outstanding bonded indebtedness in existence as of January 1, 2005, the school district shall notify the Division of Elementary and Secondary Education that the school district's outstanding bonded indebtedness in existence as of January 1, 2005, has been satisfied, which shall include defeasance, but shall exclude refunding.

History. Acts 2005, No. 2206, § 1; Sess.), No. 1, §§ 1, 2; 2017, No. 931, § 2; 2007, No. 989, §§ 3-5; 2007, No. 1573, 2019, No. 910, §§ 1701-1705.
§ 33; 2009, No. 1479, § 1; 2011, No. 266, **Amendments.** The 2019 amendment
§ 1; 2013, No. 322, § 5; 2013 (1st Ex. substituted "Division of Elementary and

Secondary Education” for “Department of Education” in (b)(2)(B) and for “department” throughout the rest of the section.

6-20-2507. Academic Facilities Partnership Program.

(a) There is established the Academic Facilities Partnership Program under which the Division of Public School Academic Facilities and Transportation shall provide state financial participation based on a school district’s academic facilities wealth index in the form of cash payments to a school district for eligible new construction projects.

(b)(1) In order to apply for state financial participation in a new construction project, a school district shall provide the Division of Public School Academic Facilities and Transportation with a detailed narrative, description, and justification for the project, a drawing, and evidence of:

(A) Preparation for the new construction project as demonstrated by inclusion of the new construction project in the school district’s facilities master plan;

(B)(i) The adoption of a resolution certifying to the Division of Public School Academic Facilities and Transportation the school district’s dedication of local resources to meet the school district’s share of financial participation in the new construction project.

(ii) The resolution shall specify the approximate date that the board of directors of the school district intends to seek elector approval of any bond or tax measures or to apply other local resources to pay the school district’s share of financial participation in the new construction project;

(C)(i) The total estimated cost of the new construction project that shall be a minimum of three hundred dollars (\$300) per student or one hundred fifty thousand dollars (\$150,000), whichever is less.

(ii) The Division of Public School Academic Facilities and Transportation may waive the minimum requirement under subdivision (b)(1)(C)(i) of this section upon a recommendation by the Director of the Division of Public School Academic Facilities and Transportation to the Commission for Arkansas Public School Academic Facilities and Transportation for the minimum to be waived for cause and a majority of the commission votes to support the waiver;

(D) The new construction project’s conformance with sound educational practices;

(E) The new construction project’s compliance with current academic facilities standards, including without limitation, appropriate space utilization of the applicable school in the district as determined by the Division of Public School Academic Facilities and Transportation;

(F) The allocation of project costs between new construction activities and maintenance, repair, and renovation activities if the new construction project includes improvements that could be classified as maintenance, repair, and renovation; and

(G) How the new construction project supports the prudent and resourceful expenditure of state funds and improves the school district's ability to deliver an adequate and equitable education to public school students in the district.

(2)(A) Life cycle data is advisory only and shall not be sufficient to support the approval of those items in the list of approved projects or individual items within a project.

(B) The Division of Public School Academic Facilities and Transportation shall require independent proof of the failure of the equipment or other item.

(c) The Division of Public School Academic Facilities and Transportation shall use criteria to evaluate a school district's application for state financial participation in a new construction project, which shall include, without limitation, the following:

(1) How the school district's facilities master plan and current academic facilities do not address the following:

(A) Student health and safety, including, without limitation, critical health and safety needs;

(B) Compliance with current academic facilities standards, including, without limitation, appropriate space utilization of existing academic facilities in the district;

(C) Conformance with sound educational practices;

(D) Curriculum improvement and diversification, including, without limitation, the use of instructional technology, distance learning, and access to advanced courses in science, mathematics, language arts, and social studies;

(E) Multischool, multidistrict, and regional planning to achieve the most effective and efficient instructional delivery system;

(F) Reasonable travel time and practical means of addressing other demographic considerations; and

(G) Regularly scheduled maintenance, repair, and renovation;

(2) How the school district's facilities master plan and any new construction project under the facilities master plan address the following:

(A) Student health and safety, including, without limitation, critical health and safety needs;

(B) Compliance with current academic facilities standards, including, without limitation, appropriate space utilization of existing academic facilities in the district;

(C) Conformance with sound educational practices;

(D) Curriculum improvement and diversification, including, without limitation, the use of instructional technology, distance learning, and access to advanced courses in science, mathematics, language arts, and social studies;

(E) Multischool, multidistrict, and regional planning to achieve the most effective and efficient instructional delivery system;

(F) Reasonable travel time and practical means of addressing other demographic considerations; and

(G) Regularly scheduled maintenance, repair, and renovation;

(3) How the new construction project supports the prudent and resourceful expenditure of state funds and improves the school district's ability to deliver an adequate and equitable education to public school students in the school district;

(4) How the new construction project has been prioritized by the school district; and

(5) The allocation and expenditure of funds in accordance with this subchapter and the Arkansas Public School Academic Facilities Program Act, § 6-21-801 et seq.

(d)(1) The Division of Public School Academic Facilities and Transportation shall notify the school district of the Division of Public School Academic Facilities and Transportation's decision on the application and, if applicable, the estimated amount of state financial participation in the new construction project no later than May 1 of each odd-numbered year.

(2) The Division of Public School Academic Facilities and Transportation's notice of its decision on a school district's application for state financial participation in a new construction project shall include an explanation of the evaluative factors underlying the decision of the Division of Public School Academic Facilities and Transportation to provide or not provide state financial participation in support of the new construction project.

(3) The commission may withdraw committed funds if a school district had funding made available on:

(A) July 1, 2006, and does not begin construction, as evidenced by a signed construction contract, by January 31, 2010; or

(B) July 1, 2007, and does not begin construction, as evidenced by a signed construction contract, by January 31, 2011.

(4) If a construction project has not begun as required under subdivision (d)(3) of this section due to the failure of a school district to raise the school district's share of the project cost due to a failed millage election before June 1, 2009, the Division of Public School Academic Facilities and Transportation may exercise its authority under § 6-21-811.

(e)(1) If the Division of Public School Academic Facilities and Transportation determines that the new construction project is eligible for state financial participation, the Division of Public School Academic Facilities and Transportation and the school district shall enter into an agreement specifying the terms of the state's financial participation and the conditions that must be satisfied by the school district.

(2) At a minimum, the agreement shall:

(A) Identify the estimated amount of local financial participation and state financial participation in the new construction project;

(B) Define the method of and schedule for transferring state financial participation funds to the school district;

(C) Identify whether the new construction project includes any improvements that are classified as maintenance, repair, and reno-

vation and how the project costs will be allocated between new construction activities and maintenance, repair, and renovation activities;

(D) Provide that changes to the plans for the new construction project shall be made in consultation with the Division of Public School Academic Facilities and Transportation;

(E) Provide that the Division of Public School Academic Facilities and Transportation or any person acting on behalf of the Division of Public School Academic Facilities and Transportation may conduct on-site inspections of the new construction project as frequently as the Division of Public School Academic Facilities and Transportation deems necessary to assure the prudent and resourceful expenditure of state funds with regard to public school academic facilities;

(F) Determine how risk will be allocated between the school district and the state if the new construction project is not completed;

(G) Describe how changes in the school district's wealth index over the course of the new construction project will be treated; and

(H) Specify that the agreement is void and the state will have no further obligation to provide state funds to the school district for the new construction project that is the subject of the agreement if the school district does not raise local resources and apply local resources toward the new construction project as provided under the agreement.

(3) If a school district fails to adhere to the timelines as established in subsection (g) of this section, the agreement shall be void and the state will have no further obligation to provide state funds to the school district for the new construction project under the agreement.

(f)(1)(A) If a school district qualifies for state financial participation under this section, the Division of Public School Academic Facilities and Transportation shall certify the amount of state financial participation to the commission.

(B) The amount of state financial participation under this section is limited to the amount resulting from the application of the academic facilities wealth index to the project cost promulgated by the commission to calculate the cost necessary to bring the academic facility into compliance with the Arkansas Public School Academic Facility Manual under § 6-21-809.

(2)(A) The commission shall certify the amount to the Division of Elementary and Secondary Education for payment, less any withholding or reduction imposed by the commission under § 6-21-114(d) for a school district's failure to comply with the commission's insurance requirements.

(B) For tracking purposes, the school district shall account for the funds received as state financial participation under this section as restricted funds and shall account for the funds in accordance with provisions of law, including without limitation, the Arkansas Educational Financial Accounting and Reporting Act of 2004, § 6-20-2201 et seq., and rules established by the State Board of Education and the commission.

(g)(1) The commission shall establish compliance dates for the:

- (A) Execution of the partnership agreement;
- (B) Start of the project design; and
- (C) Start and ending of construction.

(2) Projects not meeting the compliance dates may be cancelled by the commission, and the state's financial participation, in whole or in part, may be declared void after the school district has been provided:

- (A) A notice of the failure to meet compliance dates; and
- (B) An opportunity for a hearing before the commission.

History. Acts 2005, No. 2206, § 1; 2007, No. 625, § 2; 2007, No. 989, §§ 9-11; 2009, No. 376, § 44; 2009, No. 1473, §§ 10-13; 2017, No. 935, § 4; 2019, No. 910, §§ 1706-1711.

substituted "Division of Public School Academic Facilities and Transportation" for "division" throughout the section; and substituted "Division of Elementary and Secondary Education" for "Department of Education" in (f)(2)(A).

Amendments. The 2019 amendment

6-20-2508. Academic Facilities Catastrophic Program.

(a) There is established the Academic Facilities Catastrophic Program under which the Division of Public School Academic Facilities and Transportation shall award state financial participation to a school district based on a school district's academic facilities wealth index for eligible catastrophic repair and new construction projects for the purpose of supplementing insurance or other public or private emergency assistance received by or payable to the school district.

(b) A school district may apply for state financial participation in a catastrophic project if an academic facility in the district is damaged due to an act of God or violence that could not have been prevented by reasonable maintenance, repair, or renovation of the building.

(c) As part of its application for state financial participation in a catastrophic project, the school district shall provide the Division of Public School Academic Facilities and Transportation with evidence of:

- (1) The estimated cost of the project;
- (2) The availability of insurance and any other public or private emergency assistance to pay for the project;
- (3) How the catastrophic project supports the prudent and resourceful expenditure of state funds and improves the school district's ability to deliver an adequate and equitable education to public school students in the district; and
- (4) Proof of full replacement value insurance to include a provision requiring code upgrades.

(d)(1) The Division of Public School Academic Facilities and Transportation shall evaluate a school district's application for catastrophic assistance and may conduct an on-site inspection before making a decision on the application as it deems necessary.

(2) The Division of Public School Academic Facilities and Transportation shall notify the school district of the Division of Public School Academic Facilities and Transportation's decision on the application and, if applicable, the amount of state financial participation. The

Division of Public School Academic Facilities and Transportation shall base its decision on several factors, including, without limitation:

(A) Compliance with appropriate academic facility standards, including, without limitation, appropriate space utilization;

(B) The amount and availability of insurance or other public or private emergency assistance;

(C) The academic facilities wealth index of the school district; and

(D) The prudent and resourceful expenditure of state funds with regard to public school academic facilities.

(e)(1)(A) If a school district qualifies for state financial participation under this section, the Division of Public School Academic Facilities and Transportation shall certify the amount of state financial participation to the Commission for Arkansas Public School Academic Facilities and Transportation.

(B) The amount of state financial participation under this section shall not exceed the amount resulting from the application of the academic facilities wealth index to the cost necessary to bring the academic facility into compliance with the Arkansas Public School Academic Facility Manual, less any withholding or reduction imposed by the commission under § 6-21-114(d) for a school district's failure to comply with the commission's insurance requirements, including without limitation, the failure to carry replacement cost coverage, if applicable, on all buildings and facilities.

(2)(A) The commission shall certify the amount to the Division of Elementary and Secondary Education for payment.

(B) For tracking purposes, the school district shall account for the funds received as state financial participation under this section as restricted funds and shall account for the funds in accordance with provisions of law, including, without limitation, the Arkansas Educational Financial Accounting and Reporting Act of 2004, § 6-20-2201 et seq., and rules established by the State Board of Education and the commission.

(f) Every effort shall be made to conform a catastrophic project to current academic facilities standards, including appropriate space utilization requirements, unless in the judgment of the Division of Public School Academic Facilities and Transportation it is impractical to conform the catastrophic project to current standards.

(g) A school district shall use state financial participation in a catastrophic program to pay the cost of only the portion of a catastrophic project that is not covered by insurance or other public or private emergency assistance received by or payable to the school district.

History. Acts 2005, No. 2206, § 1; 2007, No. 625, § 3; 2007, No. 989, §§ 12, 13; 2019, No. 910, §§ 1712, 1713.

Amendments. The 2019 amendment substituted "Division of Public School Aca-

demical Facilities and Transportation" for "division" throughout the section; and substituted "Division of Elementary and Secondary Education" for "Department of Education" in (e)(2)(A).

6-20-2511. High-growth school districts — Definitions.

(a) As used in this section:

(1) "High-growth school district" means a public school district in which the average daily membership for the public school district in the present school year is four percent (4%) higher than the school year that is two (2) years before the present school year; and

(2) "Maximum expected millage" means ten (10) mills, representing the maximum number of mills that a public school district is expected to raise to service its bonded indebtedness incurred for academic facilities.

(b) There is established the Academic Facilities High-Growth School District Loan Program under which the Division of Elementary and Secondary Education shall provide an interest-free loan to a high-growth school district in which the mills required to service the bonded indebtedness incurred for academic facilities exceed the maximum expected millage for the high-growth school district.

(c)(1) A high-growth school district may apply for an interest-free loan when the high-growth school district has raised the maximum expected millage and the revenue generated from the maximum expected millage is less than the amount required to service the bonded indebtedness incurred for academic facilities.

(2) The amount of the loan shall be the amount of moneys required for academic facilities less the sum of:

(A) The revenues generated by the maximum expected millage; and

(B) The state revenue received by the high-growth school district under the Academic Facilities Partnership Program.

(3) The high-growth school district shall apply for the loan from the Revolving Loan Fund, subject to §§ 6-20-801 — 6-20-816.

(d)(1) When the revenue required to service the bonded indebtedness incurred for the high-growth school district's academic facilities is less than the revenue generated by maximum expected millage, the high-growth school district shall repay the loan.

(2)(A) The high-growth school district shall make annual payments to the state in the amount of:

(i) The revenue generated by the high-growth school district's millage up to the amount of the revenues generated from the maximum expected millage for the year; less

(ii) The revenue required to service the high-growth school district's bonded indebtedness for academic facilities.

(B) The payments under this subsection shall continue until the loan is paid in full.

(3) During the time that the loan to the high-growth school district is in repayment, the high-growth school district:

(A) Shall use all revenues generated below the maximum expected millage to repay the loan;

(B) Shall not issue refunding bonds or refunding certificates, as provided under § 6-20-815; and

(C) Shall not otherwise change the amount of revenues available to repay the loan without the prior approval of the Division of Elementary and Secondary Education.

(e) Within a reasonable time after its receipt, each application under subsection (c) of this section shall be examined by the Division of Elementary and Secondary Education in accordance with rules established by the State Board of Education as to the accuracy of the answers contained therein.

(f)(1) After considering the merits of each application, the Division of Elementary and Secondary Education may, in its discretion, approve the application for the full amount of the proposed loan, approve the application for a loan of a lesser amount than the amount requested, or disapprove the application.

(2) Before approving the application, the Division of Elementary and Secondary Education shall make a determination that the total space available in the high-growth school district is less than the amount needed to accommodate the growth of students.

(g) The Commission for Arkansas Public School Facilities and Transportation shall adopt rules to implement the program established by this section.

(h)(1) The commission shall annually determine which school districts qualify as high-growth school districts under this section.

(2) Annually, by November 1, the commission shall prepare a list of the qualified school districts and:

(A) Submit the list to the House Committee on Education and the Senate Committee on Education; and

(B) Post the list on the website of the Division of Public School Academic Facilities and Transportation.

History. Acts 2005, No. 2206, § 1; 2007, No. 995, § 2; 2015, No. 962, § 1; 2019, No. 910, §§ 1714-1716.

Amendments. The 2019 amendment, in (b), substituted "Division of Elementary and Secondary Education" for "Department of Education" and substituted "exceed" for "exceeds"; and substituted "Division of Elementary and Secondary Education" for "department" in (d)(3)(C), (e), and twice in (f).

6-20-2516. Academic Facilities Review Board.

(a) There is established the Academic Facilities Review Board to hear the appeal filed by a public school district under § 6-20-2513(a) of a determination of the Division of Public School Academic Facilities and Transportation.

(b)(1) The board is composed of five (5) members appointed by the Governor and subject to confirmation of the Senate as follows:

(A)(i) One (1) member who is a licensed building contractor with five (5) years or more of experience in public school construction.

(ii) The Governor shall consult the Arkansas chapter of the Associated General Contractors of America before making an appointment under subdivision (b)(1)(A)(i) of this section;

(B)(i) One (1) member who is a registered architect with at least five (5) years of experience in public school design.

(ii) The Governor shall consult the Arkansas chapter of the American Institute of Architects before making an appointment under subdivision (b)(1)(B)(i) of this section;

(C)(i) One (1) member who is a licensed or registered engineer with at least five (5) years of experience in public school construction.

(ii) The Governor shall consult the American Council of Engineering Companies of Arkansas and the Arkansas Society of Professional Engineers before making an appointment under subdivision (b)(1)(C)(i) of this section; and

(D)(i) Two (2) members who are selected from the public at large.

(ii) The Governor shall consult the Arkansas Association of Educational Administrators and the Arkansas School Boards Association before making an appointment under subdivision (b)(1)(D)(i) of this section.

(2) A member of the board shall be a resident of this state at the time of appointment and throughout the member's term.

(3) A member of the Commission for Arkansas Public School Academic Facilities and Transportation shall not serve as a member of the commission while serving as a member of the board.

(c)(1)(A) Each member of the board shall serve a term of three (3) years.

(B) The initial members shall draw lots for staggered terms.

(2) The Governor shall appoint any qualified person to fill a position that is vacated before the expiration of a member's term.

(d)(1) The Governor shall designate one (1) member to serve as chair of the board at its organizational meeting.

(2) The chair or the chair's designee shall call an organizational meeting within twenty (20) calendar days after the Governor has appointed all members of the initial board.

(3) At the organizational meeting, the members of the board shall elect a chair, who shall serve as chair for one (1) year.

(4) Annually after the organizational meeting, the board shall elect a new chair.

(e)(1) The board shall meet upon the call of the chair when a hearing is requested by a public school district, but a meeting shall not be held outside of this state.

(2) All action of the board shall be by a majority vote of the quorum present at a meeting.

(3) A majority of the members of the board shall constitute a quorum for the purpose of transacting business.

(f) The Division of Elementary and Secondary Education shall provide staff support for the board's activities.

(g)(1) Members of the board shall serve without pay.

(2) Members of the board may receive expense reimbursement in accordance with § 25-16-902, to be paid by the Division of Elementary and Secondary Education to the extent money is available for that purpose.

(h) The board shall establish policies and procedures for conducting hearings and appeals.

(i)(1) Following the hearing at which all testimony and evidence are presented, the board shall make a final determination accepting, rejecting, or modifying the determination of the Division of Public School Academic Facilities and Transportation.

(2) Within ten (10) business days, the board shall provide to the appellant public school district and to the Division of Public School Academic Facilities and Transportation a notice of the board's final determination.

(3)(A) If the board's final determination will result in a greater level of state financial participation in a project than previously authorized by the Division of Public School Academic Facilities and Transportation, the board's final determination shall be reviewed by the commission in accordance with procedures developed by the commission.

(B) A decision of the commission resulting from a review of a decision of the board under this section is final and is not subject to:

- (i) Further appeal to the commission;
- (ii) Request for rehearing by the commission; or
- (iii) Petition for judicial review under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

History. Acts 2009, No. 937, § 2; 2011, No. 1006, § 5; 2015, No. 1100, § 3; 2019, No. 910, § 1717.

Amendments. The 2019 amendment substituted "Division of Elementary and Secondary Education" for "Department of Education" in (f); substituted "Division of Elementary and Secondary Education" for "department" in (g)(2); and substituted "Division of Public School Academic Facilities and Transportation" for "division" throughout (i).

6-20-2517. Nursing center.

(a) Beginning in the 2017-2019 funding cycle for the Academic Facilities Partnership Program, each new application for a new school building or a major renovation to an existing school building that would normally house a nursing office shall include a school nursing center.

(b) A nursing center shall meet minimum standards for infection control and safe care, including without limitation:

- (1) A private office with a door;
- (2) Heat and air conditioning;
- (3) A telephone;
- (4) A sink with hot and cold water;
- (5) A handicap-accessible bathroom with a toilet;
- (6) A locking filing cabinet;
- (7) A double-locking medicine cabinet;
- (8) A refrigerator for medications;
- (9) A sharps container and system for the disposal of biohazard waste;
- (10) Personal protection equipment for each nurse, including gowns, masks, and gloves;
- (11) Two (2) cots;

- (12) A computer with internet access;
- (13)(A) An electronic health records system that is compliant with the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.

(B) The Division of Elementary and Secondary Education may purchase appropriate software that is accessible to a school district depending on the availability of funding;

- (14) First aid and assessment equipment;
- (15) Storage cabinets for first aid and assessment equipment; and
- (16) A desk and office supplies.

(c) The project minimum required under § 6-20-2507(b)(1)(C) does not apply to a construction project with a school nursing center.

(d) A school nursing center may be located in a portable classroom.

History. Acts 2015, No. 936, § 1; 2019, No. 910, § 1718. substituted “Division of Elementary and Secondary Education” for “Department of Education” in (b)(13)(B).

Amendments. The 2019 amendment

6-20-2518. [Repealed.]

Publisher’s Notes. This section, concerning the Public School Nurse Facility and Equipment Grant Pilot Program, was repealed by Acts 2019, No. 692, § 10, effective July 24, 2019. The section was derived from Acts 2015, No. 936, § 2.

CHAPTER 21
SCHOOL PROPERTY AND SUPPLIES

SUBCHAPTER.

- 1. GENERAL PROVISIONS.
- 3. ACQUISITION OF COMMODITIES GENERALLY.
- 4. FREE TEXTBOOK ACT OF 1975.
- 7. SCHOOL MOTOR VEHICLE INSURANCE ACT.
- 8. ARKANSAS PUBLIC SCHOOL ACADEMIC FACILITIES PROGRAM ACT.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

- 6-21-104. Distribution of surplus commodities in school lunch program.
- 6-21-106. Fire hazards inspection before closing for breaks.
- 6-21-109. Rules governing public works projects — Definition.
- 6-21-110. Rules governing disposition of school property — Definitions.

SECTION.

- 6-21-112. Division of Public School Academic Facilities and Transportation.
- 6-21-114. Commission for Arkansas Public School Academic Facilities and Transportation — Created.
- 6-21-115. Name of division — Operation — Director.

Effective Dates. Acts 2019, No. 910, § 6346(b); July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019".

6-21-104. Distribution of surplus commodities in school lunch program.

Upon the request of the State Board of Education and with the approval of the Secretary of the Department of Finance and Administration, the Department of Finance and Administration may administer the program of distribution of surplus commodities in the school lunch program under such arrangements with respect to the employment of personnel and the payment of the salaries of personnel, and maintenance, as may be mutually agreeable with the agencies above mentioned.

History. Acts 1953, No. 542, § 6; A.S.A. 1947, § 80-131.1; Acts 2019, No. 910, § 3368.

Amendments. The 2019 amendment

substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and Administration".

6-21-106. Fire hazards inspection before closing for breaks.

(a)(1)(A) At least seven (7) calendar days before the beginning of Christmas break, a local official of each public elementary and secondary school in this state shall request an inspection of the premises by the fire department providing fire protection to the school buildings.

(B) If the chief executive officer of the fire department receives the request at least seven (7) calendar days before the beginning of Christmas break, he or she shall cause the school buildings to be inspected for fire hazards.

(C) The inspection shall be conducted before the beginning of Christmas break.

(2)(A) At least seven (7) calendar days before the end of the school year, a local official with each public elementary and secondary school in this state shall request an inspection of the premises by the fire department providing fire protection to the school buildings.

(B) If the chief executive officer of the fire department receives the request at least seven (7) calendar days before the end of the school year, he or she shall cause the buildings to be inspected for fire hazards.

(C) The inspection shall occur before the end of the school year.

(b) The chief executive officer of the fire department shall file a written report of the inspection with the local official for the school district where the public school building is located within ten (10) calendar days after the inspection.

(c) The inspection shall be conducted at no cost to the school.

(d)(1) The local official shall file a written report with the chief executive officer of the fire department within seven (7) calendar days after receiving the inspection report.

(2) The local official's report shall indicate:

(A) What action was taken in response to the inspection report and the date the action was completed; or

(B) What action will be taken in response to the inspection report and the anticipated date of completion of the action.

(3) If the inspection report of the fire department includes deficiencies that require a response or other action, the local official shall also file the report required by this subsection with the State Fire Marshal Enforcement Section.

(e)(1)(A) If the local official does not receive a written inspection report for a public school building as required by this section from the chief executive officer of the fire department providing fire protection to the public school building, the local official shall notify:

(i) The State Fire Marshal Enforcement Section; and

(ii) The quorum court of the county in which the fire department is located.

(B) The local official shall provide the notifications required by this subdivision (e)(1) not less than thirty (30) days from the date the inspection was required to take place.

(2) The quorum court shall withhold from a fire department that is the subject of notification under this subsection the fire department's apportionment of distributions from the Fire Protection Premium Tax Fund under § 14-284-403 until the fire department completes the inspection and delivers the report to the local official.

(3) If the required inspection is subsequently performed, the fire department shall file the report required under subsection (b) of this section with the local official and the State Fire Marshal Enforcement Section.

(4)(A) Immediately upon receipt of the required report from the fire department, the local official shall notify the quorum court that the required report has been received.

(B) Upon receipt of the local official's notification to the quorum court, the quorum court shall disburse any Fire Protection Premium Tax Fund apportionment previously withheld due to the fire department's ineligibility under this section.

(f) The chief executive officer of the fire department may inspect any work performed by or on behalf of the school or school district to correct deficiencies noted in the inspection report.

(g) The chief executive officer of the fire department shall notify the State Fire Marshal Enforcement Section and the Division of Elementary and Secondary Education if:

(1) The chief executive officer of the fire department does not receive the local official's report required under subsection (d) of this section, within seven (7) days of the date the report was due; or

(2) The school district does not correct all deficiencies noted in the inspection report by the completion date indicated in the local official's report.

(h)(1) Any person who intentionally violates this section is subject to a fine not to exceed one hundred dollars (\$100) per violation.

(2) The failure of a public school local official to respond as provided in subsection (d) of this section to correct the deficiencies noted in an inspection report is an indicator of facilities distress under § 6-21-811.

History. Acts 1987, No. 152, §§ 1, 2; 1989, No. 411, § 1; 1995, No. 1296, § 28; 2005, No. 1994, § 68; 2007, No. 538, § 1; 2009, No. 376, § 45; 2017, No. 935, § 7; 2019, No. 910, § 1719.

substituted "of the Division of Arkansas State Police and the Division of Elementary and Secondary Education" for "of the Department of Arkansas State Police and the Department of Education" in the introductory language of (g).

Amendments. The 2019 amendment

6-21-109. Rules governing public works projects — Definition.

(a) The Commission for Arkansas Public School Academic Facilities and Transportation, after consulting with the Building Authority Division and any other entities, shall establish rules applicable to public educational entities for all public works projects when the public educational entity uses its own employees or acts as a general contractor.

(b)(1) As used in this section, "public educational entities" means Arkansas public school districts, public charter schools, education service cooperatives, or any publicly supported entity having supervision over public educational entities.

(2) "Public educational entities" does not include institutions of higher education.

History. Acts 2001, No. 1204, § 1; 2007, No. 186, § 1; 2007, No. 617, § 25; 2009, No. 1472, § 1; 2019, No. 910, § 6054.

Amendments. The 2019 amendment deleted "of the Department of Finance and Administration" following "Building Authority Division" in (a).

6-21-110. Rules governing disposition of school property — Definitions.

(a) As used in this section:

(1) "Immediate family member" means an individual's spouse, children of the individual or spouse, a child's spouse, parents of the individual or the spouse, brothers and sisters of the individual, anyone living or residing in the same residence or household with the indi-

vidual or the spouse, and anyone acting or serving as an agent of the individual; and

(2)(A) "Public educational entities" means Arkansas public school districts, public charter schools, education service cooperatives, or any publicly supported entity having supervision over public educational entities.

(B) "Public educational entities" does not include institutions of higher education.

(b) It is hereby declared against public policy and prohibited for any public educational entity to give, donate, or transfer without adequate market value consideration any public property to administrators, board members, or employees of the public educational entity, or immediate family members of any of these individuals.

(c) Public educational entities are prohibited from giving public property having a value of over one hundred dollars (\$100) to leaving or retiring board members, administrators, employees, or members of their immediate family.

(d) Unless specifically mandated by law or court order, public educational entities are prohibited from retroactively raising the salary, granting stipends, or providing other compensation for an administrator beyond the current fiscal year.

(e) The State Board of Education shall establish rules consistent with the provisions of this section regarding the disposition of public property by public educational entities.

History. Acts 2001, No. 1224, § 1; deleted "and regulations" following "rules" 2007, No. 617, § 26; 2019, No. 315, § 301. in (e).

Amendments. The 2019 amendment

6-21-112. Division of Public School Academic Facilities and Transportation.

(a) In order to ensure that substantially equal access to adequate educational facilities and educational equipment is provided for all public school students in Arkansas, the General Assembly finds that a division of public school academic facilities and transportation should be established under the direct supervision of the Commission for Arkansas Public School Academic Facilities and Transportation.

(b) There is created the Division of Public School Academic Facilities and Transportation, which shall operate under the supervision of the Commission for Arkansas Public School Academic Facilities and Transportation.

(c)(1) The Commission for Arkansas Public School Academic Facilities and Transportation shall select an individual to serve as the Director of the Division of Public School Academic Facilities and Transportation. The director shall serve at the pleasure of the commission.

(2) The person selected as the director shall:

(A) Be a person of good moral character and qualified technically and by experience to direct the work of the Division of Public School Academic Facilities and Transportation;

(B) Have significant knowledge and experience in construction; and

(C) Have ten (10) years' experience in an administrative, supervisory, or management position.

(3) No person who is related within the fourth degree of consanguinity or affinity to any member of the Commission for Arkansas Public School Academic Facilities and Transportation shall be eligible to serve as the director.

(d) The director, with guidance and approval from the Commission for Arkansas Public School Academic Facilities and Transportation, shall be responsible for hiring all employees of the Division of Public School Academic Facilities and Transportation.

(e)(1) The Secretary of the Department of Transformation and Shared Services shall assign one (1) individual to serve as a technology liaison to the Division of Public School Academic Facilities and Transportation.

(2) The secretary shall assign one (1) individual from the staff of the Building Authority Division to serve as a physical plant liaison to the Division of Public School Academic Facilities and Transportation.

(f) The Division of Public School Academic Facilities and Transportation shall:

(1) Provide information or assistance to the Academic Facilities Oversight Committee as requested;

(2) Use recommendations or assessments of the Academic Facilities Oversight Committee or the General Assembly as a basis for establishing the policies and procedures of the Division of Public School Academic Facilities and Transportation;

(3) Develop and implement the Arkansas Public School Academic Facilities Program Act, § 6-21-801 et seq.;

(4) Administer the various programs of state financial participation in support of local academic facilities;

(5)(A) Develop and implement an ongoing uniform process for collecting, inventorying, and updating information on the condition of all public school academic facilities in the state.

(B) If the process developed is an automated statewide system, it shall encompass all school districts;

(6) Develop and implement an ongoing process for collecting records from state agencies of all lawfully required inspections of public school academic facilities conducted by state agencies and commissions;

(7) Develop a facility cost index that provides a methodology for comparing the cost of repairing the condition of a public school academic facility to the cost of replacing the public school academic facility with a facility containing the same amount of square footage;

(8) Conduct unannounced random on-site inspections of public school academic facilities;

(9) Enforce through planning minimum standards for accessibility to public school academic facilities and programs for individuals with disabilities;

(10) Develop guidelines for competitive bidding, competitive negotiation, and other methods of procurement for public school academic facilities projects;

(11) Develop incentive programs to reward school districts for innovative, effective, and efficient use of local and state resources with regard to public school academic facilities;

(12) Review applicable statutes and rules for conflicts with or omission of energy-related content;

(13) Administer the school transportation program in the various school districts of Arkansas, including without limitation:

(A) The training of school bus drivers; and

(B) The inspection of school buses, as defined in § 6-19-110;

(14) Keep records showing the location of the academic facilities in the state by school district;

(15)(A) Report by October 1 of each year to the Governor, the House Committee on Education, the Senate Committee on Education, and the Academic Facilities Oversight Committee on the status of implementation of the Arkansas Public School Academic Facilities Program Act, § 6-21-801 et seq.

(B) The report also shall include summary results of lawfully required inspections of public school academic facilities by state agencies and commissions;

(16) Report by October 1 of each even-numbered year to the Governor, the House Committee on Education, the Senate Committee on Education, and the Academic Facilities Oversight Committee on the state academic facilities master plan;

(17) Maintain a public access website dedicated to public school academic facilities; and

(18) Develop and implement a statewide facilities needs priority list that provides a methodology for:

(A) Prioritization of state school district facility needs; and

(B) Comparing the school district advancement of improving facility conditions with school district master plans.

(g) The Division of Public School Academic Facilities and Transportation may:

(1) Contract with, retain the services of, or designate and fix the compensation of consultants, advisors, architects, engineers, and other independent contractors as may be necessary or desirable to carry out the Arkansas Public School Academic Facilities Program or any related program over which the Division of Public School Academic Facilities and Transportation has authority;

(2)(A) Accept all donations, grants of money, equipment, supplies, materials, and services conditional or otherwise from private sources, from municipal and county governments, from the state, and from the United States Government.

(B) The Division of Public School Academic Facilities and Transportation may use any of its resources to further the Division of Public School Academic Facilities and Transportation's purposes and functions; and

(3) Make and enter into all contracts, commitments, and agreements and execute all instruments necessary or incidental to the performance of its duties and powers under this section, the Arkansas Public School Academic Facilities Program, or any other related program over which the Division of Public School Academic Facilities and Transportation has authority.

(h) The Division of Elementary and Secondary Education shall coordinate and share certain administrative, custodial, legal, internal finance, and other necessary personnel and responsibilities to effectuate the daily operations of the Division of Public School Academic Facilities and Transportation and the Division of Information Systems.

History. Acts 2003 (2nd Ex. Sess.), No. 90, § 2; 2005, No. 1327, § 1; 2007, No. 751, § 2; 2007, No. 989, § 16; 2007, No. 1580, § 1; 2009, No. 1473, § 14; 2009, No. 1475, § 1; 2015, No. 722, § 1; 2015 (1st Ex. Sess.), No. 7, § 2; 2015 (1st Ex. Sess.), No. 8, § 2; 2019, No. 757, § 51; 2019, No. 910, §§ 1720, 1721.

Amendments. The 2019 amendment by No. 757, in (f)(14), deleted "a description of each school district in the state, a map showing the school districts with current and accurate boundaries" following "showing", inserted "in the state by school district", and deleted "and the elec-

toral zones, if any, into which each school district has been divided" at the end.

The 2019 amendment by No. 910 substituted "Secretary of the Department of Transformation and Shared Services" for "Director of the Department of Information Systems" in (e)(1) and (e)(2); deleted "of the Department of Finance and Administration" following "Building Authority Division" in (e)(2); and, in (h), substituted "Division of Elementary and Secondary Education" for "Department of Education" and substituted "Division of Information Systems" for "Department of Information Systems".

6-21-114. Commission for Arkansas Public School Academic Facilities and Transportation — Created.

(a) There is created the Commission for Arkansas Public School Academic Facilities and Transportation, which shall consist of the following:

- (1) The Secretary of the Department of Finance and Administration;
- (2) The Commissioner of Elementary and Secondary Education; and
- (3) The President of the Arkansas Development Finance Authority.

(b)(1) The members of the commission shall meet and organize immediately after March 29, 2005. The Commissioner of Elementary and Secondary Education shall be the chair of the commission.

(2)(A) The commission shall meet upon the call of the chair.

(B)(i) The secretary of the commission shall be an employee of the Division of Public School Academic Facilities and Transportation assigned to the commission by the chair of the commission.

(ii) The secretary of the commission shall give members advance notice of the agenda of each meeting.

(3)(A) Two (2) members of the commission shall constitute a quorum for the purpose of transacting business.

(B) A quorum is required for any action of the commission.

(4) Members of the commission shall serve without compensation but may receive expense reimbursement in accordance with § 25-16-902.

(c) Staff support shall be provided by appropriate personnel of the Department of Finance and Administration, the Division of Elementary and Secondary Education, the Arkansas Development Finance Authority, and the Division of Public School Academic Facilities and Transportation.

(d) The commission shall:

(1) Oversee the operations of the Division of Public School Academic Facilities and Transportation;

(2)(A) Promulgate rules in consultation with the Insurance Commissioner to establish property, boiler and machinery, and extended coverage insurance requirements and guidelines for all buildings, structures, facilities, and business personal property owned by a school district.

(B) The rules promulgated by the commission under subdivision (d)(2)(A) of this section shall:

(i) Attempt to provide the most cost-efficient manner for protecting each school district from loss of or damage to the school district's buildings, structures, facilities, and business personal property;

(ii) Require property, boiler and machinery, and extended coverage insurers to have a minimum A.M. Best rating;

(iii) Establish bidding requirements and procedures, if applicable to any insurance coverage; and

(iv)(a) Be binding upon each school district for any placement or renewal of insurance coverage after June 1, 2007.

(b) The state's financial participation under the Academic Facilities Partnership Program provided by § 6-20-2507 or the Academic Facilities Catastrophic Program provided by § 6-20-2508 may be withheld or reduced by the commission if a school district does not comply with the rules promulgated under subdivision (d)(2)(A) of this section; and

(3) Appoint all members of the Advisory Committee on Public School Academic Facilities.

(e) The commission may:

(1) Perform any act and provide for the performance of any function necessary or desirable to carry out the purposes of the Arkansas Public School Academic Facilities Program and any other related program;

(2)(A) Adopt, amend, and rescind rules as necessary or desirable for the administration of the Arkansas Public School Academic Facilities Program and any other related program.

(B) The commission shall report to the Administrative Rules Subcommittee of the Legislative Council in a manner consistent with § 10-3-309 on the adoption, amendment, rescission, or repeal of any

proposed rule related to the administration of the Arkansas Public School Academic Facilities Funding Act, § 6-20-2501 et seq., the Arkansas Public School Academic Facilities Program Act, § 6-21-801 et seq., or any other related program;

(3) Contract with, retain the services of, or designate and fix the compensation of consultants, advisors, architects, engineers, and other independent contractors as may be necessary or desirable to carry out the Arkansas Public School Academic Facilities Program or any related program; and

(4) Study and promulgate rules concerning:

(A) The propriety and feasibility of requiring that each school district maintain insurance coverage against loss due to:

(i) Earth movement; or

(ii) The operation of a school district's motor vehicles and buses; and

(B) The appropriate amount of insurance coverage under this subdivision (e)(4).

(f) The commission shall report annually on its activities to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Governor, the House Committee on Education, the Senate Committee on Education, the State Board of Education, and the Academic Facilities Oversight Committee.

History. Acts 2005, No. 1327, § 2; 2006 (1st Ex. Sess.), No. 32, § 2; 2006 (1st Ex. Sess.), No. 33, § 2; 2007, No. 625, § 1; 2009, No. 1473, § 15; 2015, No. 722, §§ 2, 3; 2017, No. 801, § 3; 2019, No. 910, §§ 1722-1725.

Amendments. The 2019 amendment substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and

Administration" in (a)(1); substituted "Commissioner of Elementary and Secondary Education" for "Commissioner of Education" in (a)(2) and (b)(1); substituted "Division of Elementary and Secondary Education" for "Department of Education" in (c); and substituted "Division of Public School Academic Facilities and Transportation" for "division" in (c) and (d)(1).

6-21-115. Name of division — Operation — Director.

(a) The division established under § 6-21-112 within the Division of Elementary and Secondary Education shall be known as the "Division of Public School Academic Facilities and Transportation".

(b)(1) The Division of Public School Academic Facilities and Transportation shall operate under the direction, control, and supervision of the Commission for Arkansas Public School Academic Facilities and Transportation.

(2) The Division of Public School Academic Facilities and Transportation shall not operate under the direction, control, and supervision of the State Board of Education.

(c) The Director of the Division of Public School Academic Facilities and Transportation shall be selected by the commission and shall serve at the pleasure of the commission.

History. Acts 2005, No. 1672, § 5; 2006 (1st Ex. Sess.), No. 32, § 3; 2006 (1st Ex. Sess.), No. 33, § 3; 2019, No. 910, § 1726.

Amendments. The 2019 amendment, in (a), inserted “within the Division of Elementary and Secondary Education”

and deleted “of the Department of Education” from the end; and substituted “Division of Public School Academic Facilities and Transportation” for “division” in (b)(1) and (b)(2).

SUBCHAPTER 3 — ACQUISITION OF COMMODITIES GENERALLY

SECTION.

6-21-303. Rules.

6-21-304. Manner of making purchases
— Definitions.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

6-21-303. Rules.

(a) The board of directors of each school district shall prescribe the method of soliciting bids and may adopt other rules governing the procurement of commodities.

(b)(1)(A) Each school district, according to its established reimbursement policy, shall provide to each prekindergarten through sixth grade (preK-6) teacher in each fiscal year for use by that teacher in his or her classroom or for class activities the greater of:

(i) Twenty dollars (\$20.00) per student enrolled in the teacher’s class for more than fifty percent (50%) of the school day at the end of the first three (3) months of the school year; or

(ii) Five hundred dollars (\$500) for the teacher to apply toward the purchase of related commodities.

(B) The teacher shall provide to the school district a receipt documenting any purchase.

(2) The board of directors of each school district shall adopt reasonable procedures for teachers to draw from or be reimbursed from the discretionary fund pursuant to this subsection.

(c) The Division of Elementary and Secondary Education may grant a waiver of the requirements of subsection (b) of this section if a school district requests a waiver and the school district is in fiscal distress.

History. Acts 1983, No. 639, § 4; A.S.A. 1947, § 80-554; Acts 2001, No. 1687, § 1; 2003, No. 756, § 1; 2005, No. 1192, § 1; 2007, No. 1573, § 61; 2019, No. 910, § 1727.

Amendments. The 2019 amendment substituted “Division of Elementary and Secondary Education” for “Department of Education” in (c).

6-21-304. Manner of making purchases — Definitions.

(a)(1)(A) All purchases of commodities by any school district, except those specifically exempted by § 6-21-305, shall be made as follows:

(i)(a) In each instance in which the estimated purchase price shall equal or exceed twenty thousand dollars (\$20,000), the commodity shall be procured by soliciting bids, provided that the purchasing official may reject all bids and may purchase the commodity by negotiating a contract.

(b) If the purchasing official, after rejecting all bids, determines that the purchase should be made by negotiation, then each responsible bidder who submitted a bid shall be notified of the determination and shall be given a reasonable opportunity to negotiate;

(ii) Open market purchases may be made when the purchase price is less than twenty thousand dollars (\$20,000); and

(iii) No purchasing official shall parcel or split any item or items with the intent or purpose to enable the purchase to be made under a less restrictive procedure.

(B) Annually on July 1, the Commissioner of Elementary and Secondary Education shall adjust the purchase price amounts under subdivision (a)(1)(A) of this section by the percentage change in the Consumer Price Index for All Urban Consumers or its successor.

(2)(A) In soliciting bids for the purchase of a commodity, a school district or a person or organization acting on behalf of a school district shall not impose qualifications or specifications that unreasonably restrict competition for the purchase of a commodity.

(B)(i) As used in this subdivision (a)(2), “specifications” means a technical description or other description of the physical or functional characteristics of a commodity.

(ii) Specifications shall not include the name or identity of any specific vendor.

(3)(A) A school district shall notify in writing all actual or prospective bidders, offerors, or contractors who make a written request to the school district for notification of opportunities to bid.

(B) Notice under subdivision (a)(3)(A) of this section shall be provided in sufficient time to allow actual or prospective bidders, offerors, or contractors to submit a bid or otherwise appropriate response.

(4)(A) Any competitive bid submitted to a school district in response to a solicitation for bids for the purchase of a commodity shall be accompanied by a form substantially similar to the following that is signed and notarized by the agent of the bidder:

“[NAME OF SCHOOL DISTRICT]

[NAME OF COUNTY]

I, _____, hereby state:

(1) I am the duly authorized agent of _____, the bidder submitting the competitive bid which is attached to this statement, for the purpose of certifying the facts pertaining to the existence of collusion among and between bidders and state officials, as well as facts pertaining to the giving or offering of things of value to government personnel in return for special consideration in the awarding of any contract pursuant to the bid to which this statement is attached.

(2) I am fully aware of the facts and circumstances surrounding the making of the bid to which this statement is attached and have been personally and directly involved in the proceedings leading to the submission of the bid.

(3) Neither the bidder nor anyone subject to the bidder's direction or control has been a party:

(A) To any collusion among bidders in restraint of freedom of competition by agreement to bid at a fixed price or to refrain from bidding;

(B) To any collusion with any state official or employee as to quantity, quality or price in the prospective contract, or as to any other terms of the prospective contract; or

(C) In any discussions between bidders and any state official concerning exchange of money or other thing of value for special consideration in the awarding of a contract.

(4) I hereby guarantee that the specifications outlined in the bid shall be followed as specified and that deviations from the specifications shall occur only as part of a formal change process approved by the Board of Directors of the school district.

Signature

Subscribed and sworn to before me this ____ day of ____, 20____.

Notary Public”.

(B) Any person determined to have made a false statement on the form prescribed by subdivision (a)(4)(A) of this section or any bidder who acts contrary to the provisions of the form after its agent has executed the form shall be guilty of a Class C misdemeanor.

(5)(A) Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a school district contract may protest to the superintendent of the school district in accordance with procedures established by the board of directors of the school district.

(B) Protest procedures shall include, at a minimum, provisions addressing the following:

(i) The superintendent's authority to settle and resolve a protest of an aggrieved person concerning the solicitation or award of a contract;

(ii) Submission of a protest in writing within seven (7) calendar days after the aggrieved person knows or should have known of the facts giving rise to the protest;

(iii) The provision of reasonable notice to all persons involved and reasonable opportunity for those persons to respond to the protest issues;

(iv) The issuance of a prompt decision in writing that states the reasons for the action taken which is provided to all interested parties;

(v) The impact of a protest on continuing with the solicitation or award of the school district contract pending the resolution of the protest; and

(vi) The award of costs with regard to successful protests.

(C) A decision on a protest under this section shall be final and conclusive.

(b)(1) The local school district board of directors shall have exclusive jurisdiction for the purchase of Types A, B, C, and D school buses.

(2) The Commission for Arkansas Public School Academic Facilities and Transportation shall have responsibility for drawing up the minimum specifications for all school buses.

(3) An advisory committee made up of ten (10) school administrators representing all sizes of schools and all areas of the state shall assist the commission in drawing up specifications for school buses.

(4)(A) A local school district board of directors may request the State Procurement Director to solicit bids for school buses on its behalf.

(B) If a request is made, the Office of State Procurement shall take bids from all school bus body and chassis manufacturers doing business in Arkansas.

(5) If a local school district board of directors chooses to purchase school buses other than through the office, the board of directors shall forward no later than twenty (20) days after the bid award the following documents to the office:

(A) A copy of all the bid specifications;

(B) A list of invited bidders;

(C) Copies of all correspondence sent out by the school district to bidders and all correspondence received by the school district from bidders;

(D) A complete bid tabulation; and

(E) A copy of the bid award.

(c) For the purposes of this section:

(1) A "Type A school bus" is a conversion or body constructed upon a van-type compact truck or a front-section vehicle with a gross weight rating of ten thousand pounds (10,000 lbs.) or less and designed for carrying more than ten (10) persons;

(2) A "Type B school bus" is a conversion or body constructed and installed upon a van or front-section vehicle chassis or stripped chassis with a vehicle weight rating of more than ten thousand pounds (10,000 lbs.) and designed for carrying more than ten (10) persons. Part of the

engine is beneath or behind the windshield and beside the driver’s seat. The entrance door is behind the front wheels;

(3) A “Type C school bus” is a body installed upon a flat back cowl chassis with a gross vehicle weight rating of more than ten thousand pounds (10,000 lbs.) and designed for carrying more than ten (10) persons. All of the engine is in front of the windshield. The entrance door is behind the front wheels; and

(4) A “Type D school bus” is a body installed upon a chassis with the engine mounted in the front, midship, or rear with a gross vehicle weight rating of more than ten thousand pounds (10,000 lbs.) and designed for carrying more than ten (10) persons. The engine may be behind the windshield and beside the driver’s seat, at the rear of the bus, behind the rear wheels, or midship between the front and rear axles. The entrance door is ahead of the front wheels.

History. Acts 1983, No. 639, § 2; A.S.A. 1947, § 80-552; Acts 1987, No. 65, § 1; 1993, No. 896, § 2; 1997, No. 327, § 1; 1997, No. 820, § 2; 2005, No. 2161, § 1; 2009, No. 1473, § 18; 2013, No. 1138, § 56; 2017, No. 1124, § 1; 2019, No. 910, § 1728.

Amendments. The 2019 amendment substituted “Commissioner of Elementary and Secondary Education” for “Commissioner of Education” in (a)(1)(B).

SUBCHAPTER 4 — FREE TEXTBOOK ACT OF 1975

SECTION.

- 6-21-403. Requirements generally — Definition.
- 6-21-404. Duties of the State Board of Education generally.
- 6-21-409. Assessment of damages for publisher’s failure to comply.

SECTION.

- 6-21-410. Illegal acts involving school officials.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

6-21-403. Requirements generally — Definition.

(a) Public school districts shall provide instructional materials, including the availability of any equipment needed to access the instructional materials, for all pupils attending the public schools of this state in kindergarten through grade twelve (K-12), inclusive, in all subjects taught in those grades, without cost to the pupils.

(b) School districts may select their own instructional materials, including the equipment needed to access the instructional materials.

(c) Materials purchased with state funds shall be consistent with the Arkansas Academic Content Standards and educational goals established by the State Board of Education.

(d)(1)(A) The Division of Elementary and Secondary Education shall monitor to ensure that all school districts in Arkansas comply with this section.

(B) The division shall report in the annual school performance report a school district that fails to provide instructional materials, including the availability of any equipment needed to access the instructional materials.

(2) The state board, through the division, may promulgate rules as may be necessary to carry out this subchapter.

(e)(1) As used in this subsection, “person” means an individual, a partnership, a corporation, a company, or an association.

(2) A person who operates in this state shall not charge a school district a price for instructional materials that exceeds the lowest contracted price currently bid in another state on the same product.

(3) A person shall sell instructional materials at the same price to all school districts in the state and must guarantee the price for the remainder of the school year.

History. Acts 1975, No. 302, §§ 2, 3; A.S.A. 1947, §§ 80-1702, 80-1703; Acts 1995, No. 280, § 2; 1995, No. 605, § 2; 2007, No. 1199, § 1; 2007, No. 1577, § 1; 2011, No. 288, § 1; 2013, No. 511, § 2; 2019, No. 757, §§ 52, 53; 2019, No. 910, § 1729.

Amendments. The 2019 amendment by No. 757 substituted “Materials” for “Any materials” and “Arkansas Academic Content Standards” for “curriculum” in (c); and deleted “and shall report to the

members of the House Committee on Education and Senate Committee on Education annually any school district out of compliance by November 1 of each year” following “subchapter” in (d)(2).

The 2019 amendment by No. 910 substituted “Division of Elementary and Secondary Education” for “Department of Education” in (d)(1)(A); and substituted “division” for “department” in (d)(1)(B) and (d)(2).

6-21-404. Duties of the State Board of Education generally.

(a) The State Board of Education may:

(1) Make rules to implement this subchapter;

(2) Require reports from school districts on the use and distribution of these items; and

(3) Do whatever else may be necessary for the general welfare of the public school instructional materials system in order to acquire the items at the lowest possible cost.

(b) The powers enumerated in this section are cumulative and not restrictive.

History. Acts 1975, No. 302, § 17; A.S.A. 1947, § 80-1717; Acts 1995, No. 280, § 3; 1995, No. 605, § 3; 1997, No. 333, § 1; 2013, No. 511, § 3; 2019, No. 315, § 302.

Amendments. The 2019 amendment deleted “and regulations” following “rules” in (a)(1).

6-21-409. Assessment of damages for publisher’s failure to comply.

(a) The State Board of Education is authorized to assess any publisher any amount of damages to the State of Arkansas for failure to comply with the terms of this subchapter or any published rule of the state board, provided that the publisher has been given a hearing before the state board regarding the assessment of damages.

(b) If a publisher fails to reimburse the state within six (6) months after notice of assessment has been served on the publisher, the state board may prohibit the publisher from selling instructional materials in Arkansas for a maximum period of five (5) years from the date that damages are assessed under this section.

History. Acts 1975, No. 302, §§ 7, 8; 1983, No. 426, § 3; A.S.A. 1947, §§ 80-1707, 80-1708; Acts 1989, No. 847, § 1; 1995, No. 280, § 8; 1995, No. 605, § 8; 2013, No. 511, § 8; 2019, No. 315, § 303.

Amendments. The 2019 amendment substituted “rule” for “regulation” in (a).

6-21-410. Illegal acts involving school officials.

(a)(1) It shall be illegal for the Commissioner of Elementary and Secondary Education or any other employee connected with the Division of Elementary and Secondary Education, any member of any selecting committee, or any member of any school district board of directors to accept or receive any money, gift, property, or favor whatsoever from any person, firm, or corporation, or any agent thereof offering for sale any item pursuant to this subchapter or from any person in any way interested in such sale.

(2) Any person who pleads guilty or nolo contendere to or is found guilty of violating this subsection shall be guilty of a Class B misdemeanor.

(3) Any fines collected under this subsection shall be deposited into the State Treasury to the credit of the Public School Fund.

(b)(1)(A) It shall be illegal for any teacher in the public schools of Arkansas or any person connected with the public school system of Arkansas in any capacity to have any interest in the profits, proceeds, or sale of any instructional materials used in the schools of Arkansas

under his or her charge or with which he or she is connected in any official capacity.

(B) However, this provision shall not apply nor have any reference to royalties or fees received by a person from the sale of instructional materials of which he or she is the author.

(2) Any person who pleads guilty or nolo contendere to or is found guilty of violating this subsection shall be guilty of a violation and subject to a fine of no less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200).

(3) Any fines collected under this subsection shall be deposited into the State Treasury to the credit of the fund.

(c)(1) It shall be illegal for any person directly or indirectly to promise or offer to give or cause to be promised, offered, or given any money, good, bribe, present, reward, or any valuable thing whatsoever to the commissioner, his or her assistants, or any other employee of the Division of Elementary and Secondary Education, the Director of the Division of Career and Technical Education, his or her assistants or any other employee of the Division of Career and Technical Education, any school district board members, teachers, or other persons with the intent of influencing their decisions on any questions, matters, causes, or proceedings in the selection of instructional materials.

(2) Any person who pleads guilty or nolo contendere to or is found guilty of violating this subsection shall be guilty of a Class B misdemeanor.

(3) Any fines collected under this subsection shall be deposited into the State Treasury to the credit of the fund.

History. Acts 1975, No. 302, § 9; 1977, No. 645, § 1; A.S.A. 1947, § 80-1709; Acts 1995, No. 280, § 9; 1995, No. 605, § 9; 1999, No. 1078, § 82; 1999, No. 1323, § 22; 2005, No. 1994, § 386; 2013, No. 511, §§ 9, 10; 2019, No. 910, §§ 1730, 1731.

Amendments. The 2019 amendment, in (a)(1), substituted “Commissioner of Elementary and Secondary Education” for “Commissioner of Education” and substi-

tuted “Division of Elementary and Secondary Education” for “Department of Education”; and, in (c)(1), substituted “Division of Elementary and Secondary Education, the Director of the Division of Career and Technical Education” for “Department of Education, the Director of the Department of Career Education”, and substituted “Division of Career and Technical Education” for “Department of Career Education”.

SUBCHAPTER 7 — SCHOOL MOTOR VEHICLE INSURANCE ACT

SECTION.

6-21-702. Purpose.

6-21-709. Payment of claims — Subrogation — Premium rate — Excess insurance.

6-21-702. Purpose.

(a) This subchapter is to establish and maintain a system of motor vehicle insurance for all public elementary and secondary schools, education service cooperatives, and open-enrollment public charter

schools of Arkansas electing to participate in the program from and after July 1, 1991, with the Risk Management Division authorized, directed, and empowered to administer the program.

(b) The State Insurance Department shall adopt such rules as may be necessary to provide for the insuring of motor vehicles owned by participating public school districts within the State of Arkansas.

History. Acts 1991, No. 824, § 2; 2003 (2nd Ex. Sess.), No. 78, § 16; 2019, No. 315, § 304.

Amendments. The 2019 amendment deleted “and regulations” following “rules” in (b).

6-21-709. Payment of claims — Subrogation — Premium rate — Excess insurance.

(a)(1) The Public School Insurance Trust Fund shall pay all losses and claims the insured is legally obligated to pay as specified in the contract.

(2) It shall be the duty of the State Insurance Department to coordinate, facilitate, and expedite details in connection with responsibilities outlined in the insurance contract.

(3) The department is hereby granted authority to contract for services with appraisers, adjusters, attorneys, or other professionals needed in order to expedite and facilitate the proper operation of the Public School Motor Vehicle Insurance Program.

(b) The program may require an assignment of rights of recovery to the extent that payment is made under any coverage provided by the program.

(c) If other insurance coverage exists, the program will pay its proportional share of the loss. The program’s share shall be the proportion that the program’s limits of liability bear to the total of all applicable limits.

(d)(1) Participating entities shall make payment of premium when demand is made as scheduled in the contract.

(2) Any school district, education service cooperative, or open-enrollment public charter school which does not pay the premium when due shall be charged a rate of interest at five percent (5%) per annum on all payments due and unpaid on the policy issued.

(3) The department may cancel insurance coverage for school districts, education service cooperatives, or open-enrollment public charter schools that fail to pay the premium due within thirty (30) days.

(4) The department shall give thirty (30) days’ notice before any cancellation for nonpayment.

(e) The department’s rules shall include such items as payment of premium and other pertinent items with reference to the premium rate, but its requirements shall not be more stringent than practices of commercial companies writing similar insurance in Arkansas.

History. Acts 1991, No. 824, §§ 9, 10, 2007, No. 617, § 29; 2007, No. 738, § 5; 12, 15; 2003 (2nd Ex. Sess.), No. 78, § 23; 2019, No. 315, § 305.

Amendments. The 2019 amendment deleted “and regulations” following “rules” in (e).

**SUBCHAPTER 8 — ARKANSAS PUBLIC SCHOOL ACADEMIC FACILITIES
PROGRAM ACT**

SECTION.
6-21-808. Public School Facilities Custodial, Maintenance, Repair, and Renovation Manual.
6-21-809. Arkansas Public School Academic Facility Manual.

SECTION.
6-21-811. Academic Facilities Distress Program.
6-21-812. Facilities distress — Student transfers.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

6-21-808. Public School Facilities Custodial, Maintenance, Repair, and Renovation Manual.

- (a) The purposes of the Public School Facilities Custodial, Maintenance, Repair, and Renovation Manual and this section are to:
- (1) Provide for the long-term conservation and protection of public school facilities;
 - (2) Eliminate the deterioration of existing and future public school facilities;
 - (3) Provide a safe and healthy environment for students, teachers, administrators, and staff of the public schools; and
 - (4) Provide for the efficient use of state and local funds in support of academic facilities in each school district in the state.
- (b)(1) The manual shall contain standards for custodial operations related to public school facilities.
- (2) Standards for custodial operations in public school facilities shall include the following:
- (A) The required contents of a custodial care plan;
 - (B) A suggested schedule for routine care and renovation cleaning;
 - (C) Levels of personnel necessary to perform custodial operations;

(D) Training criteria for the use and storage of supplies and equipment, with emphasis given to chemical right-to-know, indoor air quality, and other applicable standards;

(E) Supplies and equipment necessary to perform custodial operations, including space standards for the proper storage of supplies and equipment;

(F) In-service training opportunities for custodial personnel;

(G) Designation of routine duties;

(H) Designation of renovation cleaning duties; and

(I) Suggested schedule for the sanitary inspection of all school buildings.

(c)(1) The manual shall contain standards for maintenance, repair, and renovation activities related to public school facilities.

(2) Standards for maintenance, repair, and renovation activities in public school facilities shall include the following:

(A) The required contents of a preventive maintenance plan, which shall include guidelines for:

(i) Scheduling preventive maintenance activities for public school facilities;

(ii) Preparing and retaining documentation that describes preventive maintenance work related to public school facilities and identifies the completion date of the work;

(iii) Scheduling lawfully required inspections of public school facilities conducted by state agencies and commissions; and

(iv) Scheduling the inspections specified by the Commission for Arkansas Public School Academic Facilities and Transportation relating to safe, dry, and healthy public school facilities;

(B)(i) Development and implementation of a work-request system to allow others to inform a public school's maintenance department of needs and to allow the responsible person to prioritize responses.

(ii)(a) School districts shall participate in any state-level computerized maintenance management system designed to track work orders and preventative maintenance work established by the Division of Public School Academic Facilities and Transportation at no cost to the school district.

(b) The cost associated with additional maintenance modules by a school district shall be at the expense of the school district and may be within the nine-percent minimum maintenance expenditures under subdivision (d)(1)(A) of this section.

(c) School district use of the computerized management maintenance system under this subdivision (c)(2)(B)(ii) shall include without limitation:

(1) Entering and tracking all reactive and preventative maintenance work;

(2) Entering preventative maintenance schedules for academic and nonacademic facilities' systems;

(3) Documenting completed reactive and preventative maintenance work; and

(4) Scheduling state-mandated inspections as required under § 6-21-813(e);

(C) Levels of personnel necessary to perform maintenance operations;

(D) Training criteria for maintenance personnel with regard to:

(i) School policies;

(ii) Safety procedures;

(iii) Use of specialized equipment;

(iv) Compliance with federal, state, county, and municipal laws and regulations impacting public school facilities and equipment; and

(v) Other applicable areas;

(E) In-service training opportunities for maintenance personnel;

(F) Inspection, cleaning, servicing, and repair of heating, ventilation, and air-conditioning systems;

(G) Inspection and repair of:

(i) Electrical systems;

(ii) Hot water boilers and heaters;

(iii) Fire alarms;

(iv) Fire extinguishers and kitchen hood vent suppression systems;

(v) Emergency lighting and exit light fixtures;

(vi) Elevators and wheelchair lifts;

(vii) Plumbing;

(viii) Roofs;

(ix) Stairwell areas;

(x) Interior and exterior lighting;

(xi) Doors and windows;

(xii) Floor coverings;

(xiii) Masonry and concrete building exteriors;

(xiv) Interior and exterior finishes;

(xv) Kitchen equipment;

(xvi) Sidewalks, driveways, parking areas, and paved play areas; and

(xvii) Parking lots, handicap parking spaces, driveways, fire and emergency vehicle zones, and bus and car loading and unloading areas;

(H) Inspection and repair and servicing of fire sprinkler systems;

(I) Maintenance of a pest control program;

(J) Inspection of playground equipment; and

(K) Grounds maintenance.

(d)(1)(A) Each school district shall dedicate nine percent (9%) of its foundation funding exclusively to payment of utilities and costs of custodial, maintenance, repair, and renovation activities, which include related personnel costs, for public school facilities.

(B)(i) If any amount of the dedicated nine percent (9%) is unspent at the end of the school district's fiscal year, the funds shall carry over, and the school district shall transfer the remaining amount into a public school facilities escrow account.

(ii) A school district may use funds from its public school facilities escrow account in any fiscal year for payment of utilities and costs of custodial, maintenance, repair, and renovation activities, which include related personnel costs, for public school facilities.

(iii)(a) If a school district wants to use funds from its public school facilities escrow account for new construction, the school district shall apply to the division for its approval.

(b) If the division authorizes the release of funds from the school district's public school facilities escrow account and approves the new construction, the school district may use the funds as authorized by the division.

(2)(A) A school district is not required to use funds in its public school facilities escrow account for new construction.

(B)(i) New construction shall be funded by local resources, which may include funds in the school district's public school facilities escrow account if approved by the division.

(ii) In addition, new construction may be eligible for state financial participation.

History. Acts 2005, No. 1426, § 1; 2006 (1st Ex. Sess.), No. 19, § 7; 2009, No. 1473, §§ 21, 22; 2009, No. 1475, § 2; 2019, No. 933, § 1.

Amendments. The 2019 amendment deleted "be required to" preceding "participate" in (c)(2)(B)(ii)(a); and added (c)(2)(B)(ii)(c).

6-21-809. Arkansas Public School Academic Facility Manual.

(a) The Arkansas Public School Academic Facility Manual shall contain uniform standards to guide the planning, design, and construction of new public school academic facilities and additions to existing public school academic facilities.

(b) Design and construction standards shall include provisions addressing the following areas:

(1) Planning concepts related to current educational best practices, special education, workforce development, and program and design capacity;

(2) Organizational, facility, program, and service issues, including grade configuration, school size, and class size;

(3)(A) Site selection, including without limitation guidelines about site size and site amenities, such as site access, grading, drainage, drives, parking, walks, fencing, exterior security provisions, exterior lighting, mechanical yards, electrical yards, site furnishings, play fields, playgrounds, and landscaping.

(B)(i) A public school district shall notify the Arkansas Department of Transportation of its site selection under subdivision (b)(3)(A) of this section.

(ii) Upon receipt of notification under subdivision (b)(3)(B)(i) of this section, the department may perform a traffic impact analysis to determine the impact the public school district's facility design or construction project may have on traffic.

(iii) A public school district may incorporate the results and recommendations that address the results of the traffic impact analysis into the design plan for a public school district facility design or construction project.

(iv) Notwithstanding other statutes to the contrary, the cost of any recommendations under subdivision (b)(3)(B)(iii) of this section may be considered an eligible construction expense for any design or construction project undertaken by a public school district.

(v)(a) Nonrevenue receipts of a school district and revenue receipts of a school district, as defined under § 6-20-401(3) and (4), may be used to pay for the cost of any recommendations under subdivision (b)(3)(B)(iii) of this section.

(b) However, facilities partnership funds shall not be used to pay for the cost of recommendations under subdivision (b)(3)(B)(iii) of this section.

(vi) The Commission for Arkansas Public School Academic Facilities and Transportation shall, in consultation with the department, promulgate rules necessary to implement this subdivision (b)(3)(B);

(4) Standards for size and quantity of instruction and support spaces;

(5) Program space guidelines, including necessary features, loose furnishings, and finishes related to identified programs and services;

(6) Design standards and guidelines regarding the quality of materials and systems for the following building systems:

(A) Fire and safety;

(B) Roofing;

(C) Structural;

(D) Heating, ventilation, and air conditioning;

(E) Plumbing;

(F) Electrical;

(G) Exterior;

(H) Interior;

(I) Technology; and

(J) Specialties, including equipment and furnishings; and

(7) Repair and construction cost guidelines.

(c) The manual shall also include provisions addressing the following areas:

(1)(A) A process by which a school district may apply for a variance from applicable academic facility standards upon presenting evidence of:

(i) The existence of conditions that make compliance with applicable standards impractical or unreasonably burdensome; and

(ii) Other conditions determined by the Division of Public School Academic Facilities and Transportation as warranting a variance from applicable public school academic facility standards.

(B) The variance provision shall address minimum standards for academic facilities that are reasonably expected to close or be replaced within three (3) years;

(2) Review and approval of all plans and designs for major building systems related to new construction of academic facilities before preparation of final bid or other applicable procurement documents;

(3) Site inspections of all major building and design systems at appropriate stages of construction;

(4) Contingency plans for review and inspection by the division if appropriate state, local, or other officials are unable or unwilling to complete an appropriate plan review or site inspection; and

(5) The short-term temporary use of premanufactured portable buildings.

(d) The division shall review and update the manual on an annual basis.

History. Acts 2005, No. 1426, § 1; added (b)(3)(B) and redesignated former 2015, No. 722, § 4; 2019, No. 858, § 1. (b)(3) as (b)(3)(A); and inserted “without

Amendments. The 2019 amendment limitation” in (b)(3)(A).

6-21-811. Academic Facilities Distress Program.

(a) The Commission for Arkansas Public School Academic Facilities and Transportation shall classify a public school or school district as being in academic facilities distress if the Division of Public School Academic Facilities and Transportation recommends and the commission concurs that the public school or school district has engaged in actions or inactions that result in any of the following:

(1) Any act or violation determined by the division to jeopardize any academic facility used by a public school or school district, including, but not limited to:

(A) Material failure to properly maintain academic facilities in accordance with this subchapter and rules adopted by the commission;

(B) Material violation of local, state, or federal fire, health, or safety code provisions or laws;

(C) Material violation of applicable building code provisions or law;

(D) Material failure to provide timely and accurate facilities master plans to the division;

(E) Material failure to comply with state law governing purchasing, bid requirements, or school-construction-related laws or rules in relation to academic facilities projects;

(F) Material default on any school district debt obligation; or

(G) Material failure to plan and progress satisfactorily toward accomplishing the priorities established by the division and the approved school district’s facilities master plan; and

(2) Any other condition of an academic facility or facilities in a public school or school district that is determined by the division to have a detrimental impact on educational services provided by that public school or school district.

(b) The division shall provide written notice, via certified mail, return receipt requested, to the president of the board of directors and

the superintendent of the school district identified or containing a school identified by the division as being in facilities distress.

(c)(1) By August 31 of each year, the division shall notify the superintendent of a school district if the division is aware the school district has experienced two (2) or more indicators of facilities distress in one (1) school year that the division deems to be nonmaterial but that without intervention could place the district in facilities distress.

(2) The superintendent of a school district shall report to the division if the superintendent is aware the school district has experienced two (2) or more indicators of facilities distress in one (1) school year that the superintendent deems to be nonmaterial but that without intervention could place the district in facilities distress.

(3)(A) The division and the superintendent shall review all data related to the nonmaterial indicators of facilities distress.

(B)(i) Within thirty (30) days of the division's determination that the school district may be experiencing facilities distress at a non-material level, the division shall provide a notice to the school district's superintendent and board of directors that:

(a) Describes the nonmaterial indicators of facilities distress that could have a detrimental impact on educational services provided by the affected public school or the school district if not addressed; and

(b) Identifies the support available from the division to address each nonmaterial indicator of facilities distress.

(ii) The board of directors shall place on the agenda for the next regularly scheduled meeting of the board of directors a discussion of the notice of nonmaterial indicators of facilities distress.

(4)(A) If any condition of an academic facility raises a significant health or safety issue, the superintendent of the school district where the academic facility is located or the person responsible for the management of the academic facility shall immediately notify the division and the board of directors of the school district.

(B) The board of directors shall place on the agenda for the next regularly scheduled meeting of the board of directors a discussion of the notice of the significant health or safety issue.

(d)(1) A public school or school district classified by the commission as being in facilities distress shall develop a facilities improvement plan within thirty (30) days from the date of classification and promptly submit the facilities improvement plan to the division for review and approval.

(2) A public school or school district shall review and revise its facilities improvement plan on a periodic basis as determined by the division and submit the updated facilities improvement plan to the division in order for the division to determine whether the public school or school district is correcting its deficient areas of practice regarding academic facilities.

(3) A school district shall use facilities improvement plans as necessary to supplement and update its facilities master plan.

(e)(1) Every two (2) years, the division shall determine whether the progress of each school district complies with the school district's

facilities master plan and shall notify the school district of any noncompliance.

(2) Every two (2) years, the division shall review the applications made for the Academic Facilities Partnership Program established under § 6-20-2507, to identify any school district that did not apply for state funding for necessary facilities to meet adequacy requirements and shall notify the school district of any deficiencies.

(3) Within thirty (30) days of receiving the notice provided under subdivision (e)(1) or subdivision (e)(2) of this section, the school district shall submit a facilities improvement plan to the division for its review and approval that states how the school district will address the noncompliance issues contained in the notice.

(4) If the division does not approve the facilities improvement plan submitted by the school district, it shall identify the school district as being in facilities distress.

(5) A school district may appeal the identification of the division under this subsection to the commission pursuant to the procedures established by the commission.

(f)(1)(A) Within ten (10) days of a school district's failure to pass a millage required to fulfill its obligations under the school district's facilities master plan, the division shall provide written notice to the school district of the date, time, and place for a conference with the school district at which the division will:

(i) Determine whether as a result of the failed millage there are facilities issues relating to:

(a) Immediate repairs under § 6-20-2504(b)(4) [repealed];

(b) The presence and number of suitability needs of public school academic facilities, which shall be defined by rule; or

(c) Immediate need for academic facilities to meet student growth; and

(ii) Thoroughly discuss and explain the sanctions and requirements that are available to the commission if the school district or a school within the district is classified by the commission as being in facilities distress under this section and § 6-21-812.

(B) The written notice shall be provided via certified mail to the president of the school district board of directors and the superintendent of the school district.

(C) The commission shall establish rules for the implementation of this subdivision (f)(1).

(2)(A) If the commission determines that there are immediate repairs, growth, or suitability issues that require expedited attention, the commission may direct the school district to conduct a special election to vote on a millage increase.

(B)(i) The division and the school district shall agree upon the issues to be submitted for a vote in the special election.

(ii) The special election may not include any issues other than the issues that are mutually agreed upon.

(C) The special election shall be held on a date that is:

(i) Mutually agreed upon by the division and the school district; and

(ii) Not later than seven (7) months from the date of the election at which the millage failed unless it is necessary to extend the date beyond seven (7) months because of restrictions on the number of elections that may be held within a calendar year.

(D) If within ninety (90) days from the notice provided to the school district under subdivision (f)(1)(A) of this section the school district has not set an election date, the division shall identify the school district as being in facilities distress.

(E)(i) If the school district is able to finance the immediate repairs, growth, and suitability improvements without the necessity of a special election on increasing its millage, the school district may enter into an agreement with the division to fund its improvements separately, which shall include an implementation timeframe.

(ii) The division shall identify the school district as being in facilities distress for failure to implement the agreed upon plan for immediate repairs, growth, and suitability improvements within the timeframe specified in the agreement.

(g) When a school district is classified by the commission to be in facilities distress, the division may, with the approval of the commission:

(1)(A) Provide on-site technical evaluation and assistance and make written recommendations to the school district superintendent regarding the care and maintenance of any academic facility in the school district.

(B) Any school district classified as being in facilities distress status shall accept on-site technical evaluation and assistance from the division.

(C) The written recommendations of the division are binding on the school district, the superintendent, and the board of directors;

(2) Remove permanently, reassign, or suspend on a temporary basis the superintendent of the school district, and:

(A) Appoint an individual in place of the superintendent to administratively operate the school district under the supervision and approval of the Commissioner of Elementary and Secondary Education;

(B) Compensate the individual operating the school district from school district funding; and

(C) Authorize the individual to remove, replace, reassign, or suspend public school district personnel in accordance with state law;

(3) Suspend or remove some or all of the current board of directors and call for the election of a new board of directors for the school district, in which case the school district shall reimburse the county board of election commissioners for election costs as otherwise required by law;

(4)(A) Remove on a temporary basis some or all of the powers and duties granted to the current public school district board of directors

under § 6-13-620 or any other applicable law but allow the public school district board of directors to continue to operate under the direction and approval of the Commissioner of Elementary and Secondary Education.

(B) The commission shall define the powers and duties of the public school district board of directors under this section.

(C) The public school district board of directors shall act in an advisory capacity to the Commissioner of Elementary and Secondary Education with respect to all other powers and duties maintained by the Commissioner of Elementary and Secondary Education;

(5) Require the school district to operate without a board of directors under the supervision of the superintendent or an individual or panel appointed by the Commissioner of Elementary and Secondary Education;

(6) Waive the application of Arkansas law or the corresponding State Board of Education or commission rules, with the exception of:

(A) The Teacher Fair Dismissal Act of 1983, § 6-17-1501 et seq.;

(B) The Public School Employee Fair Hearing Act, § 6-17-1701 et seq.;

(C) Special education programs as provided in this title;

(D) Conducting criminal background checks for employees as provided in this title; and

(E) Health and safety codes as established by the state board, the commission, and local governmental entities;

(7) In the absence of a school district board of directors, direct the Commissioner of Elementary and Secondary Education to assume all authority of the board of directors as may be necessary for the day-to-day governance of the school district;

(8) Require reassignment of some or all of the administrative, instructional, or support staff of a public school;

(9) Require reorganization, closure, or dissolution of one (1) or more of the public schools within the classified school district;

(10)(A) Return the administration of the school district to the former board of directors or place the administration of the school district in a newly elected board of directors if:

(i) The division certifies in writing to the commission and to the school district that the school district has corrected all issues that caused the classification of facilities distress and the school district has not experienced any additional indicators of facilities distress; and

(ii) The commission determines the school district has corrected all issues that caused the classification of facilities distress.

(B) If the division calls for an election of a new school district board of directors, the school district shall reimburse the county board of election commissioners for election costs as otherwise required by law;

(11) Require school district staff and employees to attend training in areas of concern for the public school or school district;

(12)(A) Require a school district to cease all expenditures related to activities not described as part of an adequate education in § 6-20-2302 and place money that would have been spent on the activities into an academic facilities escrow account to be released only upon approval by the division for use in conjunction with a local academic facilities project.

(B) School districts shall include a clause addressing this contingency in all contracts with personnel who are involved with activities not described as part of an adequate education;

(13) Notify the public school or school district in writing that the deficiencies regarding academic facilities shall be corrected within a time period designated by the division;

(14)(A) Petition the state board at any time for the consolidation, annexation, or reconstitution of a school district in facilities distress or take other appropriate action as allowed by this subchapter in order to secure and protect the best interest of the educational resources of the state or to provide for the best interest of students in the school district.

(B) The state board may approve the petition under subdivision (g)(14)(A) of this section or take other appropriate action as allowed by this subchapter.

(C) Except as established in subdivision (g)(14)(D) of this section or subsection (n) of this section, the state board shall consolidate, annex, or reconstitute any school district that fails to remove itself from the classification of a school district in facilities distress within five (5) consecutive school years of classification of facilities distress status.

(D) The state board may grant additional time for a public school or school district to remove itself from facilities distress by issuing a written finding supported by a majority of the state board explaining in detail that the public school or school district could not remove itself from facilities distress during the relevant time period due to impossibility caused by external forces beyond the control of the public school or school district;

(15) Correct the failure of a school district to complete its agreed plan or to pass the millage in the special election under subdivision (f)(2) of this section by contracting for and completing the necessary improvements under the agreed plan;

(16)(A) If the academic facilities in the public school district in facilities distress are inadequate to provide an adequate education, recommend that the state board dissolve the school district and transfer students to public schools in other public school districts.

(B) If the state board elects to dissolve the school district and transfer students to public schools in other public school districts, the state board shall assign the public school district's territory, property, and debt; and

(17) Take any other action allowed by law that is deemed necessary to assist a public school or school district in correcting the issues that

caused the classification of facilities distress, to secure and protect the best interest of the educational resources of the state, or to provide for the best interest of students in the school district.

(h) No school district identified by the division as being in facilities distress may incur any debt without the prior written approval of the commission.

(i) A public school or school district in facilities distress may petition the commission for removal from facilities distress status only after the division has certified in writing that the public school or school district has corrected all criteria for being classified as in facilities distress and has complied with all division recommendations and requirements for removal from facilities distress status.

(j) The division shall submit a written evaluation on the status of each school district in facilities distress to the commission and the state board at least one (1) time every six (6) months.

(k)(1)(A) If a school district is classified by the commission as being in facilities distress and has immediate repairs, growth, or suitability improvement issues, the division, in addition to any other remedy under this section and § 6-21-812, may provide a loan to the school district to be repaid from any funds available that are not required to provide an adequate education.

(B)(i) Funds available that are not required to provide an adequate education include:

(a) Fund balances and any cash on hand that are not part of foundation funding or categorical funding under § 6-20-2305 and are not otherwise required to provide an adequate education for students in the public school district; and

(b) Revenues that are not obligated on bonds.

(ii) Funds remaining after the annual payment on a bond obligation are included in funds that are not required to provide an adequate education.

(2) The public school district shall repay the loan on the schedule determined by the division.

(l) The commission in conjunction with the Academic Facilities Oversight Committee shall:

(1) Reexamine the role and function of the State Facility Assessment of 2004;

(2) Assess the progress made by the state in the mandates of the Supreme Court in *Lake View School District No. 25 v. Huckabee*, 351 Ark. 31, 91 S.W.3d 472 (2002); and

(3) Make needed changes in the implementation of the academic facilities program by modifying the commission's rules.

(m) [Repealed.]

(n)(1) If, by the end of the fifth school year following the school district's classification of facilities distress status, the school district in facilities distress has not corrected all issues that caused the classification of facilities distress, the state board, upon petition from the commission or the division and after a public hearing, shall consolidate, annex, or reconstitute the school district under this section.

(2) The state board may grant additional time for a public school or school district to remove itself from facilities distress by issuing a written finding supported by a majority of the state board explaining in detail that the public school or school district could not remove itself from facilities distress during the relevant time period due to impossibility caused by external forces beyond the control of the public school or school district.

(o) This section does not prevent the division, the commission, or the state board from taking any of the actions listed in this section at any time to address a public school or school district in facilities distress.

History. Acts 2005, No. 1426, § 1; 2007, No. 989, § 18; 2007, No. 996, § 2; 2009, No. 798, § 2; 2009, No. 1473, § 23; 2013, No. 600, §§ 18-23; 2017, No. 935, §§ 9, 10; 2019, No. 315, § 306; 2019, No. 910, § 1732; 2019, No. 933, §§ 2, 3.

Amendments. The 2019 amendment by No. 315 deleted “and regulations” following “rules” in the introductory language of (g)(5) [now (g)(6)].

The 2019 amendment by No. 910 substituted “Division of Public School Academic Facilities and Transportation” for “division” throughout the section; substituted “Commissioner of Elementary and Secondary Education” for “Commissioner of Education” in (g)(2)(A); in (m), substituted “Division of Elementary and Secondary Education” for “Department of Education”; and made stylistic changes.

The 2019 amendment by No. 933 rewrote (g)(2)(B); added (g)(2)(C); inserted (g)(4) and redesignated the remaining subdivisions accordingly; inserted “or commission” in the introductory language of (g)(6); added (g)(6)(C) through (g)(6)(E); redesignated former (g)(6) as (g)(7); inserted (g)(8) and (g)(9) and redesignated the remaining subdivisions accordingly; added “and the school district has not experienced any additional indicators of facilities distress” in (g)(10)(A)(i); inserted “under subdivision (g)(14)(A) of this section” in (g)(14)(B); in (g)(14)(C), substituted “established” for “set forth” and substituted “(g)(14)(D)” for “(g)(11)(D)”; rewrote (g)(16); repealed (m); and made a stylistic change.

6-21-812. Facilities distress — Student transfers.

(a)(1) Any student attending a public school district classified as being in facilities distress shall automatically be eligible and entitled under the Public School Choice Act of 2015, § 6-18-1901 et seq., to transfer to another school district not in facilities distress during the time period that a district is classified as being in facilities distress.

(2) The student is not required to file a petition to transfer by May 1 but shall meet all other requirements and conditions of the Public School Choice Act of 2015, § 6-18-1901 et seq.

(b) The resident district shall pay the cost of transporting the student from the resident district to the nonresident district.

(c) The nonresident district shall count the student for average daily membership purposes.

History. Acts 2005, No. 1426, § 1; 2013, No. 1227, § 5; 2019, No. 933, § 4.

Amendments. The 2019 amendment

substituted “petition to transfer by May 1” for “petition by June 1” in (a)(2).

CHAPTER 22**ARKANSAS REGISTERED VOLUNTEERS PROGRAM
ACT**

SECTION.

6-22-103. Definitions.

6-22-103. Definitions.

As used in this chapter:

(1) "Extracurricular activity" means any intraschool activity that is outside the regular curriculum, including, but not limited to, sports and special interest clubs or groups;

(2) "Interscholastic activity" means any interschool activity that is outside the regular curriculum, including, but not limited to, sports and special interest clubs or groups which are subject to rules of the Arkansas Activities Association;

(3) "Registered volunteer" means any volunteer who, subject to Arkansas Activities Association rules and rules set by the local school district, is given written authorization by the school district to lead extracurricular activities or to assist a staff member who is a licensed employee of the school district in extracurricular activities or interscholastic activities; and

(4) "Volunteer" means any person who, of his or her own free will, provides services without any financial gain to any local school district.

History. Acts 1997, No. 1012, § 3; substituted "rules" for "regulations" in (2); 2013, No. 1138, § 59; 2019, No. 315, and substituted "rules and rules" for § 307. "regulations and rules" in (3).

Amendments. The 2019 amendment

CHAPTER 23**ARKANSAS QUALITY CHARTER SCHOOLS ACT OF
2013**

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. CONVERSION PUBLIC CHARTER SCHOOLS.
3. OPEN-ENROLLMENT PUBLIC CHARTER SCHOOLS.
4. OPEN-ENROLLMENT PUBLIC CHARTER SCHOOLS — OPERATION.
5. OPEN-ENROLLMENT PUBLIC CHARTER SCHOOLS — FUNDING.
7. PUBLIC CHARTER SCHOOL AUTHORIZER.
9. OPEN-ENROLLMENT PUBLIC CHARTER SCHOOL FACILITIES LOAN FUND.
10. ADULT EDUCATION CHARTER SCHOOL.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.	SECTION.
6-23-103. Definitions.	education, or denial of re-
6-23-105. Basis and procedure for public charter school probation or charter modification, revo-	newal.
	6-23-107. Reporting requirements.
	6-23-108. School for Agricultural Studies.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

6-23-103. Definitions.

As used in this chapter:

- (1) “Adult education charter school” means a charter school for individuals at least nineteen (19) years of age that offers a high school diploma program and an industry certification program simultaneously to students;
- (2) “Application” means the proposal for obtaining conversion public charter school status or open-enrollment public charter school status;
- (3) “Authorizer” means an entity that authorizes a charter, which may be either the:
 - (A) Division of Elementary and Secondary Education; or
 - (B) State Board of Education acting under § 6-23-703;
- (4) “Charter” means a performance-based contract for an initial five-year period between the authorizer and an approved applicant for public charter school status that exempts the public charter school from state and local rules, regulations, policies, and procedures specified in the contract and from the provisions of this title specified in the contract;
- (5) “Conversion public charter school” means a public school that has converted to operating under the terms of a charter approved by the local school district board of directors and the authorizer;
- (6) “Eligible entity” means:
 - (A) A public institution of higher education;
 - (B) A private nonsectarian institution of higher education;
 - (C) A governmental entity; or
 - (D) An organization that:

(i) Is nonsectarian in its program, admissions policies, employment practices, and operations; and

(ii) Has applied for tax-exempt status under the Internal Revenue Code of 1986, 26 U.S.C. § 501(c)(3);

(7) “Founding member” means any individual who is either:

(A) A member or an employee of the eligible entity applying for the initial charter for an open-enrollment public charter school; or

(B) A member of the initial governing nonadvisory board of the open-enrollment public charter school;

(8) “Local school board” means a board of directors exercising the control and management of a public school district;

(9)(A) “Open-enrollment public charter school” means a public school that:

(i) Is operating under the terms of a charter granted by the authorizer on the application of an eligible entity;

(ii) May draw its students from any public school district in this state; and

(iii) Is a local educational agency under the Elementary and Secondary Education Act of 1965, 20 U.S.C. § 6301 et seq., as it existed on April 10, 2009.

(B) “Open-enrollment public charter school” also possesses the same meaning as given the term “charter school” in the Elementary and Secondary Education Act of 1965, 20 U.S.C. § 7221i, as it existed on April 10, 2009;

(10) “Parent” means any parent, legal guardian, or other person having custody or charge of a school-age child;

(11) “Public charter school” means a conversion public charter school or an open-enrollment public charter school; and

(12) “Public school” means a school that is part of a public school district under the control and management of a local school district board of directors.

History. Acts 1999, No. 890, § 3; 2003 (2nd Ex. Sess.), No. 22, § 2; 2005, No. 2005, § 2; 2007, No. 736, § 1; 2009, No. 1469, § 18; 2013, No. 509, § 2; 2015, No. 1200, § 1; 2017, No. 933, §§ 1-3; 2019, No. 910, § 1733.

Amendments. The 2019 amendment substituted “Division of Elementary and Secondary Education” for “Department of Education” in (3)(A).

6-23-105. Basis and procedure for public charter school probation or charter modification, revocation, or denial of renewal.

(a)(1) The authorizer may place a public charter school on probation or may modify, revoke, transfer, assign, or deny renewal of its charter if the authorizer determines that the persons operating the public charter school:

(A) Committed a material violation of the charter, including failure to satisfy accountability provisions prescribed by the charter;

(B) Failed to satisfy generally accepted accounting standards of fiscal management;

(C) Failed to comply with this chapter or other applicable law or rule; or

(D) Failed to meet academic or fiscal performance criteria deemed appropriate and relevant for the public charter school by the authorizer.

(2) The charter authorizer may allow the voluntary assignment of a public charter school upon petition by the public charter school to the charter authorizer.

(3)(A) If the authorizer transfers or assigns the charter of a public charter school to an eligible entity under subdivision (a)(1) of this section, the authorizer shall not hold the applicant responsible for any activity that occurred before the transfer or assignment, which includes without limitation any disciplinary action taken by the authorizer.

(B) After the authorizer transfers or assigns a charter to an eligible entity under subdivision (a)(1) of this section, the authorizer shall:

(i) Issue a new local education agency number as required under § 25-6-107; and

(ii) Not issue an annual report as required under § 6-15-2101 until the eligible entity to which the charter was transferred has completed at least one (1) school year.

(b) Any action the authorizer may take under this section shall be based on the best interests of the public charter school's students, the severity of the violation, and any previous violation the public charter school may have committed.

(c) The authorizer shall adopt a procedure to be used for placing a public charter school on probation or modifying, revoking, transferring, assigning, or denying renewal of the school's charter.

(d)(1) The procedure adopted under this section shall provide an opportunity for a hearing to the persons operating the public charter school.

(2)(A) The hearing shall be held at the Division of Elementary and Secondary Education.

(B) The authorizer shall provide sufficient written notice of the time and location of the hearing.

(3) There is no further right of appeal beyond the determination of the authorizer.

(4) The Arkansas Administrative Procedure Act, § 25-15-201 et seq., shall not apply to a hearing concerning a public charter school.

(e)(1)(A) Immediately upon the revocation, transfer, or assignment of an open-enrollment charter by the authorizer, an open-enrollment charter school shall:

(i) Transfer to the division all state funds held by the public charter school, which the division shall hold in receivership; and

(ii) Provide to the division a detailed accounting of all accounts payable due from the state funds and any additional information or

records requested by the division concerning the disbursement of the state funds.

(B) The division shall hold funds received under subdivision (e)(1)(A) of this section in a separate fund and shall expend the funds only with prior approval of the Commissioner of Elementary and Secondary Education.

(C) If the State Board of Education reverses the revocation, transfer, or assignment, the division shall return any funds remaining in receivership to the public charter school.

(2)(A) The division shall establish a procedure for a claimant to file a claim for disbursement from the state funds.

(B) The determination of the division concerning the disbursement of the state funds is final and may not be appealed.

(3) If funds remain in receivership for which no legitimate, documented claim has been made to the division within one (1) calendar year after the revocation, the remaining funds shall be transferred to the Public School Fund.

(4) The state board may promulgate rules to implement this subsection.

History. Acts 1999, No. 890, § 11; 2005, No. 2005, § 3; 2007, No. 736, § 3; 2009, No. 1469, § 23; 2013, No. 509, § 2; 2017, No. 933, § 4; 2019, No. 315, § 308; 2019, No. 757, § 54; 2019, No. 761, §§ 1-3; 2019, No. 910, §§ 1734, 1735.

Amendments. The 2019 amendment by No. 315 substituted “rule” for “regulation” in (a)(3) [now (a)(1)(C)].

The 2019 amendment by No. 757 substituted “an open-enrollment charter by” for “a charter by” in the introductory language of (e)(1)(A).

The 2019 amendment by No. 761 redesignated the former introductory language

of (a) as (a)(1), and former (a)(1) through (a)(4) as (a)(1)(A) through (a)(1)(D); inserted “transfer, assign” in (a)(1); added (a)(2) and (a)(3); inserted “transferring, assigning” in (c); and inserted “transfer, or assignment” in the introductory language of (e)(1)(A) and in (e)(1)(C).

The 2019 amendment by No. 910 substituted “Division of Elementary and Secondary Education” for “Department of Education” in (d)(2)(A); substituted “division” for “department” throughout (e); and substituted “Commissioner of Elementary and Secondary Education” for “Commissioner of Education” in (e)(1)(B).

6-23-107. Reporting requirements.

(a) Within ten (10) calendar days of the close of the first quarter of each school year, a public charter school shall submit a written report to the Division of Elementary and Secondary Education that contains the following information for the current school year:

(1) The number of applications for enrollment received;

(2) The number of applicants with a disability identified under the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq.; and

(3) The number of applications for enrollment the public charter school denied and an explanation of the reason for each denial.

(b) Within ten (10) calendar days of the close of the fourth quarter of each school year, a public charter school shall submit a written report

to the division that contains the following information for the current school year:

(1) The number of students in each of the following categories:

(A) Students who dropped out of the public charter school during the school year;

(B) Students who were expelled during the school year by the public charter school; and

(C) Students who were enrolled in the public charter school but for a reason other than those cited in subdivisions (b)(1)(A) and (B) of this section did not complete the school year at the public charter school; and

(2)(A) For all students enrolled in the public charter school, the scores for assessments required under the Arkansas Educational Support and Accountability Act, § 6-15-2901 et seq.

(B) If there is any discrepancy in the number of students for whom scores are reported under this subdivision (b)(2) and the number of students enrolled at the beginning of the school year, the public charter school shall explain in the report the reason for the discrepancy.

(c) The division shall not exempt a public charter school from the reporting required under this section.

(d) The division shall publish a copy of each report on the division's website.

(e) If a public charter school fails to comply with this section, the division shall note the failure in the annual evaluation of the public charter school.

History. Acts 2011, No. 993, § 3; 2017, No. 936, § 54; 2019, No. 910, § 1736.

Amendments. The 2019 amendment substituted "Division of Elementary and

Secondary Education" for "Department of Education" in the introductory language of (a); and substituted "division" for "department" throughout the section.

6-23-108. School for Agricultural Studies.

(a) The authorizer may designate a public charter school as a "School for Agricultural Studies".

(b) To be designated as a "School for Agricultural Studies", the applicant must include in its original application or charter amendment request:

(1) A request to be designated as a "School for Agricultural Studies";

(2) The school's agricultural studies plan, which shall include without limitation:

(A) The type of agricultural industry in the school's local region;

(B) How the school will address the needs of that industry and the state's agricultural-based economy; and

(C) Anticipated support from the agricultural industry; and

(3) A written review of the agricultural studies plan from the Division of Career and Technical Education.

(c)(1) A School for Agricultural Studies may petition the State Board of Education for creation of a new school district by detachment under

§ 6-13-1501 et seq. if the School for Agricultural Studies meets the conditions of this subsection.

(2) To be eligible to petition for detachment, the school shall:

(A) Complete three (3) academic years serving students as a School for Agricultural Studies;

(B) Not currently be classified in need of Level 5 — Intensive support, fiscal distress, or facilities distress;

(C) Not be in probationary status for violation of the Standards for Accreditation of Arkansas Public Schools and School Districts; and

(D) Show evidence that the school is meeting its stated goals.

(3) A School for Agricultural Studies:

(A) Is exempt from the minimum student enrollment and square mileage requirements under § 6-13-1501(a)(2) and § 6-13-1502; and

(B) Shall not be approved to create a new school district by detachment with fewer than three hundred fifty (350) students as determined by a feasibility study included with the petition.

(d)(1) Nothing in this section prohibits a public charter school from offering agricultural programming without the designation as a “School for Agricultural Studies”.

(2) A public charter school shall not refer to itself as a “School for Agricultural Studies” unless it is designated as a “School for Agricultural Studies” under this section.

History. Acts 2017, No. 742, § 2; 2019, No. 757, § 55; 2019, No. 910, § 1737.

Amendments. The 2019 amendment by No. 757 substituted “in need of Level 5 — Intensive support” for “in academic distress” in (c)(2)(B).

The 2019 amendment by No. 910 substituted “Division of Career and Technical Education” for “Department of Career Education” in (b)(3).

SUBCHAPTER 2 — CONVERSION PUBLIC CHARTER SCHOOLS

SECTION.

6-23-201. Application for conversion public charter school status.

6-23-203. Notice of disapproval — Technical assistance to conver-

SECTION.

6-23-206. Rules.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

6-23-201. Application for conversion public charter school status.

(a)(1) Any public school district may apply to the authorizer for conversion public charter school status for a public school in the public school district in accordance with a schedule approved by the authorizer.

(2) A public school district's application for conversion public charter school status for the public school may include, but shall not be limited to, the following purposes:

(A) Adopting research-based school or instructional designs, or both, that focus on improving student and school performance;

(B) Addressing school improvement status resulting from sanctions listed in § 6-15-207(c)(8) and § 6-15-429(a) and (b) [repealed]; or

(C) Partnering with other public school districts or public schools to address students' needs in a geographical location or multiple locations.

(b) Such application shall:

(1)(A) Describe the results of a public hearing called by the local school district board of directors for the purpose of assessing support of an application for conversion public charter school status.

(B) Notice of the public hearing shall be:

(i) Distributed to the community, licensed personnel, and the parents of all students enrolled at the public school for which the public school district initiated the application; and

(ii) Published in a newspaper having general circulation in the public school district at least three (3) weeks before the date of the meeting;

(2) Describe a plan for school improvement that addresses how the conversion public charter school will improve student learning and meet the state education goals;

(3) Outline proposed performance criteria that will be used during the initial five-year period of the charter to measure the progress of the conversion public charter school in improving student learning and meeting or exceeding the state education goals;

(4) Describe how the licensed employees and parents of students to be enrolled in the conversion public charter school will be involved in developing and implementing the school improvement plan and identifying performance criteria;

(5) Describe how the concerns of licensed employees and parents of students enrolled in the conversion public charter school will be solicited and addressed in evaluating the effectiveness of the improvement plan; and

(6) List the specific provisions of this title and the specific rules promulgated by the State Board of Education from which the conversion public charter school will be exempt.

(c)(1) A licensed teacher employed by a public school in the school year immediately preceding the effective date of a charter for a public

school conversion within that public school district may not be transferred to or be employed by the conversion public charter school over the licensed teacher’s objection, nor shall that objection be used as a basis to deny continuing employment within the public school district in another public school at a similar grade level.

(2) If the transfer of a teacher within the public school district is not possible because only one (1) public school exists for that teacher’s licensure level, then the local school district board of directors shall call for a vote of the licensed teachers in the proposed conversion public charter school site and proceed, at the option of the local school board of directors, with the conversion public charter school application if a majority of the licensed teachers approve the proposal.

History. Acts 1999, No. 890, § 4; 2001, No. 1311, § 1; 2005, No. 2005, § 5; 2007, No. 736, § 5; 2013, No. 509, § 3; 2013, No. 1138, §§ 61, 62; 2019, No. 315, § 309.	Amendments. The 2019 amendment deleted “and regulations” following “rules” in (b)(6).
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6-23-203. Notice of disapproval — Technical assistance to conversion public charter school applicants.

(a) If the authorizer disapproves an application for a conversion public charter school, the authorizer shall notify the applicant in writing of the reasons for the disapproval.

(b) The Division of Elementary and Secondary Education may provide technical assistance to the conversion public charter school applicants in the:

- (1) Creation of its application; and
- (2) Modification of its application as directed by the authorizer.

History. Acts 1999, No. 890, § 4; 2007, No. 736, § 7; 2013, No. 509, § 4; 2015, No. 846, § 29; 2019, No. 910, § 1738.	substituted “Division of Elementary and Secondary Education” for “Department of Education” in (b).
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Amendments. The 2019 amendment

6-23-206. Rules.

The State Board of Education is authorized and directed to establish rules for conversion public charter schools.

History. Acts 1999, No. 890, § 4; 2007, No. 736, § 10; 2019, No. 315, § 310.	deleted “and regulations” following “rules” in the section heading and in the section.
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Amendments. The 2019 amendment

SUBCHAPTER 3 — OPEN-ENROLLMENT PUBLIC CHARTER SCHOOLS

SECTION.	SECTION.
6-23-302. Application for open-enrollment public charter school.	6-23-305. Notice of disapproval — Technical assistance to applicant for open-enrollment public charter school.
6-23-304. Requirements — Preference for certain districts.	6-23-309. Rules.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

6-23-302. Application for open-enrollment public charter school.

(a) Pursuant to the provisions of this chapter, an eligible entity may apply to the authorizer to grant a charter for an open-enrollment public charter school to operate in a facility of a commercial or nonprofit entity or a public school district.

(b) The application to the authorizer for an open-enrollment public charter school shall be made in accordance with a schedule approved by the authorizer.

(c) The application shall:

(1)(A) Describe the results of a public hearing called by the applicant for the purpose of assessing support for an application for an open-enrollment public charter school.

(B)(i) Notice of the public hearing shall be published one (1) time a week for three (3) consecutive weeks in a newspaper having general circulation in the public school district in which the open-enrollment public charter school is likely to be located.

(ii) The last publication of notice shall be no less than seven (7) days before the public meeting.

(iii) The notice shall not be published in the classified or legal notice section of the newspaper.

(C)(i) Within seven (7) calendar days following the first publication of notice required under subdivision (c)(1)(B) of this section, letters announcing the public hearing shall be sent to the superintendent of each of the public school districts from which the open-enrollment public charter school is likely to draw students for the purpose of enrollment and the superintendent of any public school district that is contiguous to the public school district in which the open-enrollment public charter school will be located.

(ii) An affected school district may submit written comments concerning the application to the authorizer to be considered at the time of the authorizer’s review of the application;

(2) Describe a plan for academic achievement that addresses how the open-enrollment public charter school will improve student learning and meet the state education goals;

(3) Outline the proposed performance criteria that will be used during the initial five-year period of the open-enrollment public charter school operation to measure its progress in improving student learning and meeting or exceeding the state education goals;

(4) List the specific provisions of this title and the specific rules promulgated by the State Board of Education from which the open-enrollment public charter school seeks to be exempted;

(5)(A) Describe in general terms the area within the boundaries of the school district where the applicant intends to obtain a facility to be used for the open-enrollment public charter school.

(B) If the facility to be used for an open-enrollment public charter school is a public school district facility, the open-enrollment public charter school must operate in the facility in accordance with the terms established by the local school district board of directors of the public school district in an agreement governing the relationship between the open-enrollment public charter school and the public school district.

(C) If the facility that will be used for the open-enrollment public charter school is owned by or leased from a sectarian organization, the terms of the facility agreement must be disclosed to the authorizer; and

(6) Include a detailed budget and a governance plan for the operation of the open-enrollment public charter school.

(d)(1)(A) The application may be reviewed and approved by the local school district board of directors of the public school district in which the proposed open-enrollment public charter school will operate.

(B) The applicant may submit to the authorizer for expedited review an application approved by the local school district board of directors under subdivision (d)(1)(A) of this section.

(2)(A) However, if the local school district board of directors disapproves the application, the applicant shall have an immediate right to proceed with a written notice of appeal to the authorizer.

(B) The authorizer shall hold a hearing within forty-five (45) calendar days after receipt of the notice of appeal or a request for review.

(C) All interested parties may appear at the hearing and present relevant information regarding the application.

(e) A licensed teacher employed by a public school district in the school year immediately preceding the effective date of a charter for an open-enrollment public charter school operated at a public school facility may not be transferred to or be employed by the open-enrollment public charter school over the licensed teacher's objections.

History. Acts 1999, No. 890, § 5; 2001, No. 1311, § 2; 2005, No. 2005, § 7; 2007, No. 736, § 13; 2009, No. 1469, § 20; 2011, No. 993, § 5; 2013, No. 509, §§ 6-9; 2017, No. 933, § 5; 2019, No. 315, § 311.

Amendments. The 2019 amendment deleted "and regulations" following "rules" in (c)(4).

6-23-304. Requirements — Preference for certain districts.

(a) The authorizer may approve or deny an application based on:

(1) Criteria provided by law or by rule adopted by the State Board of Education;

(2) Findings of the authorizer relating to improving student performance and encouraging innovative programs; and

(3) Written findings or statements received by the authorizer from any public school district likely to be affected by the open-enrollment public charter school.

(b) The authorizer shall give preference in approving an application for an open-enrollment public charter school to be located in any public school district:

(1) When the percentage of students who qualify for free or reduced-price lunches is above the average for the state;

(2) When the district has been classified by the state board as in need of Level 5 — Intensive support under § 6-15-2915; or

(3) When the district has been classified by the Division of Elementary and Secondary Education as in some phase of fiscal distress under the Arkansas Fiscal Assessment and Accountability Program, § 6-20-1901 et seq., if the fiscal distress status is a result of administrative fiscal mismanagement, as determined by the state board.

(c)(1)(A) The division, the state board, or a combination of the division and state board may grant no more than a total of twenty-four (24) charters for open-enrollment public charter schools except as provided under subdivision (c)(1)(B) of this section.

(B) If the cap on the number of charters available for an open-enrollment public charter school is within two (2) charters of meeting any existing limitation or cap on available open-enrollment charters, the number of available charters shall automatically increase by five (5) slots more than the most recent existing limitation or cap on open-enrollment charters.

(C) By March 1 each year, the division shall issue a commissioner's memo stating the existing limitation on the number of charters available for open-enrollment public charter schools and the number of charters available for open-enrollment public charter schools during the next application cycle.

(2) An open-enrollment public charter applicant's school campus shall be limited to a single open-enrollment public charter school per charter except as allowed in subsection (d) of this section.

(3) An open-enrollment public charter school shall not open in the service area of a public school district administratively reorganized under the Public Education Reorganization Act, § 6-13-1601 et seq., until after the third year of the administrative reorganization.

(4) A private or parochial elementary or secondary school shall not be eligible for open-enrollment public charter school status.

(d) A charter applicant that receives an approved open-enrollment public charter may petition the authorizer for additional licenses to

establish an open-enrollment public charter school in any of the various congressional districts in Arkansas if the applicant meets the following conditions:

- (1) The approved open-enrollment public charter applicant has demonstrated academic success as defined by the state board for all public schools;
- (2) The approved open-enrollment public charter applicant has not:
 - (A) Been subject to any disciplinary action by the authorizer;
 - (B) Been classified as in need of Level 5 — Intensive support or fiscal distress; and
 - (C) Had its open-enrollment public charter placed on charter school probation or suspended or revoked under § 6-23-105; and
- (3) The authorizer determines in writing by majority of a quorum present that the open-enrollment public charter applicant has generally established the educational program results and criteria set forth in this subsection.

History. Acts 1999, No. 890, §§ 5, 8, 13; 2001, No. 1311, § 3; 2005, No. 2005, § 8; 2007, No. 736, § 15; 2007, No. 827, § 117; 2009, No. 376, § 46; 2011, No. 987, § 1; 2011, No. 993, § 6; 2013, No. 509, § 10; 2019, No. 757, §§ 56, 57; 2019, No. 910, §§ 1739-1741.

Amendments. The 2019 amendment by No. 757 substituted “in need of Level 5 – Intensive support under § 6-15-2915” for “in academic distress under § 6-15-428 [repealed]” in (b)(2); deleted “some

phase of school improvement status under § 6-15-426 [repealed] or” following “as in” in (b)(3); and substituted “in need of Level 5 – Intensive support” for “in academic” in (d)(2)(B).

The 2019 amendment by No. 910 substituted “Division of Elementary and Secondary Education” for “Department of Education” in (b)(3); and substituted “division” for “department” in (c)(1)(A) twice and in (c)(1)(C).

6-23-305. Notice of disapproval — Technical assistance to applicant for open-enrollment public charter school.

(a) If the authorizer disapproves an application for an open-enrollment public charter school, the authorizer shall notify the applicant in writing of the reasons for such disapproval.

(b) The Division of Elementary and Secondary Education may provide technical assistance to the applicant for an open-enrollment public charter school in the:

- (1) Creation of its application; and
- (2) Modification of its application as directed by the authorizer.

History. Acts 1999, No. 890, § 5; 2007, No. 736, § 16; 2013, No. 509, § 10; 2015, No. 846, § 30; 2019, No. 910, § 1742.

Amendments. The 2019 amendment

substituted “Division of Elementary and Secondary Education” for “Department of Education” in (b).

6-23-309. Rules.

The State Board of Education is authorized to promulgate rules for the creation of open-enrollment public charter schools.

History. Acts 1999, No. 890, § 5; 2007, No. 736, § 20; 2019, No. 315, § 312.

Amendments. The 2019 amendment deleted “and regulations” following “rules” in the section heading and in the section.

SUBCHAPTER 4 — OPEN-ENROLLMENT PUBLIC CHARTER SCHOOLS —

OPERATION

SECTION.	SECTION.
6-23-401. Authority under a charter for open-enrollment public charter schools.	6-23-405. Monthly reports.
6-23-402. Enrollment numbers and deadline.	6-23-406. Division of Elementary and Secondary Education review.
6-23-404. Evaluation of open-enrollment public charter schools.	

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

6-23-401. Authority under a charter for open-enrollment public charter schools.

- (a) An open-enrollment public charter school:
- (1) Shall be governed by an eligible entity that is fiscally accountable and under the governing structure as described by the charter;

(2) Shall provide instruction to students at one (1) or more elementary or secondary grade levels as provided by the charter;

(3) Shall retain authority to operate under the charter contingent on satisfactory student performance as provided by the charter and in accordance with this chapter;

(4) Shall have no authority to impose taxes;

(5) Shall not incur any debts without the prior review and approval of the Commissioner of Elementary and Secondary Education;

(6) Shall not charge students tuition or fees that would not be allowable charges in the public school districts; and

(7) Shall not be religious in its operations or programmatic offerings.
- (b) An open-enrollment public charter school is subject to any prohibition, restriction, or requirement imposed by this title and any rule promulgated by the State Board of Education under this title relating to:

- (1) Monitoring compliance with this chapter, as determined by the commissioner;
- (2) Public school accountability under this title;
- (3) High school graduation requirements as established by the state board;
- (4) Special education programs as provided by this title;
- (5) Conducting criminal background checks for employees as provided in this title;
- (6) Health and safety codes as established by the state board and local governmental entities; and
- (7) Reporting through the Arkansas Public School Computer Network applications as provided under this title.

History. Acts 1999, No. 890, § 6; 2007, No. 736, § 22; 2019, No. 315, § 313; 2019, No. 815, § 7.

Amendments. The 2019 amendment by No. 315 deleted “and regulation” following “rule” in the introductory language of (b). The 2019 amendment by No. 815 added (b)(7).

6-23-402. Enrollment numbers and deadline.

- (a) An open-enrollment public charter school may enroll a number of students not to exceed the number of students specified in its charter.
- (b)(1) Any student enrolling in an open-enrollment public charter school shall enroll in that school by July 30 for the upcoming school year during which the student will be attending the open-enrollment public charter school.
- (2) However, if a student enrolled by July 15 should no longer choose to attend the open-enrollment public charter school or if the open-enrollment public charter school has not yet met its enrollment cap, the open-enrollment public charter school may enroll a number of replacement or additional students not to exceed the enrollment cap of the open-enrollment public charter school.
- (c) Open-enrollment public charter schools shall keep records of attendance in accordance with the law and submit quarterly attendance reports to the Division of Elementary and Secondary Education.

History. Acts 1999, No. 890, § 7; 2001, No. 1311, § 5; 2005, No. 2005, § 10; 2007, No. 736, § 23; 2011, No. 989, § 74; 2011, No. 993, § 9; 2019, No. 910, § 1743.

Amendments. The 2019 amendment substituted “Division of Elementary and Secondary Education” for “Department of Education” in (c).

6-23-404. Evaluation of open-enrollment public charter schools.

- (a) The Division of Elementary and Secondary Education shall cause to be conducted an annual evaluation of open-enrollment public charter schools.
- (b) An annual evaluation shall include without limitation consideration of:
 - (1) Student scores under the statewide assessment program described in § 6-15-433 [repealed];

- (2) Student attendance;
- (3) Student grades;
- (4) Incidents involving student discipline;
- (5) Socioeconomic data on students' families;
- (6) Parental satisfaction with the schools;
- (7) Student satisfaction with the schools; and
- (8) The open-enrollment public charter school's compliance with § 6-23-107.

(c) The authorizer may require the charter holder to appear before the authorizer to discuss the results of the evaluation and to present further information to the authorizer as the authorizer deems necessary.

History. Acts 1999, No. 890, § 12; 2001, No. 1311, § 6; 2007, No. 736, § 25; 2011, No. 993, § 10; 2013, No. 509, § 13; 2019, No. 910, § 1744.

Amendments. The 2019 amendment substituted "Division of Elementary and Secondary Education" for "Department of Education" in (a).

6-23-405. Monthly reports.

An open-enrollment public charter school in its initial school year of operation shall provide monthly reports on its enrollment status and compliance with its approved budget for the current school year to the Division of Elementary and Secondary Education.

History. Acts 2011, No. 993, § 11; 2019, No. 910, § 1745.

Amendments. The 2019 amendment substituted "Division of Elementary and Secondary Education" for "Department of Education".

6-23-406. Division of Elementary and Secondary Education review.

The Division of Elementary and Secondary Education shall:

- (1) Conduct an end-of-semester review of each open-enrollment public charter school that is in its initial school year of operation at the end of the first semester and at the end of the school year; and
- (2) Report to the State Board of Education and the Commissioner of Elementary and Secondary Education on the open-enrollment public charter school's:
 - (A) Overall financial condition; and
 - (B) Overall condition of student enrollment.

History. Acts 2011, No. 993, § 11; 2013, No. 509, § 14; 2019, No. 910, § 1746.

Amendments. The 2019 amendment substituted "Division of Elementary and Secondary Education" for "Department of Education" in the section heading and in the introductory language; and substituted "Commissioner of Elementary and Secondary Education" for "Commissioner of Education" in (2).

SUBCHAPTER 5 — OPEN-ENROLLMENT PUBLIC CHARTER SCHOOLS — FUNDING

SECTION.

6-23-501. Funding for open-enrollment public charter schools.

6-23-506. Assets of school as property of state.

SECTION.

6-23-507. Rules.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019".

6-23-501. Funding for open-enrollment public charter schools.

(a)(1) An open-enrollment public charter school shall receive funds equal to the amount that a public school would receive under § 6-20-2305(a) and (b) as well as any other funding that a public charter school is entitled to receive under law or under rules promulgated by the State Board of Education.

(2)(A) For the first year of operation, the first year operating under a new license, the first year adding a new campus, and in any year a grade is added at any campus, the foundation funding and enhanced educational funding for an open-enrollment public charter school is determined as follows:

(i) The initial funding estimate shall be based on enrollment as of July 1 of the current school year;

(ii) In December, funding will be adjusted based upon the first quarter average daily membership; and

(iii) A final adjustment will be made after the current three-quarter average daily membership is established.

(B) For the second year and each school year thereafter, the previous year's average daily membership will be used to calculate foundation funding and any enhanced educational funding amounts.

(3) Enhanced Student Achievement Funding under § 6-20-2305(b)(4) shall be provided to an open-enrollment public charter school as follows:

(A) For the first year of operation, the first year operating under a new license, the first year adding a new campus, and in any year when a grade is added at any campus, free or reduced-price meal

eligibility data as reported by October 1 of the current school year will be used to calculate the Enhanced Student Achievement Funding under the state board rules governing special needs funding; and

(B) For the second year and each school year of operation thereafter, the previous year's October 1 national school lunch student count as specified in state board rules governing special needs funding will be used to calculate Enhanced Student Achievement Funding for the open-enrollment public charter school.

(4) Professional development funding under § 6-20-2305(b)(5) shall be provided to an open-enrollment public charter school for the first year of operation, the first year operating under a new license, the first year adding a new campus, and in any year in which a grade is added at any campus as follows:

(A) In the first year of operation the open-enrollment public charter school shall receive professional development funding based upon the initial projected enrollment student count as of July 1 of the current school year multiplied by the per-student professional development funding amount under § 6-20-2305(b)(5) for that school year; and

(B) For the second year and each school year thereafter, professional development funding will be based upon the previous year's average daily membership multiplied by the per-student professional development funding amount for that school year.

(5) The Division of Elementary and Secondary Education shall distribute other categorical funding under § 6-20-2305(a) and (b) for which an open-enrollment public charter school is eligible as provided by state law and rules promulgated by the state board.

(6) An open-enrollment public charter school shall not be denied foundation funding, enhanced educational funding, or categorical funding in the first year or any year of operation provided that the open-enrollment public charter school submits to the division the number of students eligible for funding as specified in applicable rules.

(7) Foundation funding for an open-enrollment public charter school shall be paid in twelve (12) installments each fiscal year.

(b) An open-enrollment public charter school may receive any state and federal aids, grants, and revenue as may be provided by law.

(c) Open-enrollment public charter schools may receive gifts and grants from private sources in whatever manner is available to public school districts.

History. Acts 1999, No. 890, § 7; 2001, No. 1311, § 7; 2003 (2nd Ex. Sess.), No. 59, § 3; 2005, No. 2005, § 11; 2007, No. 736, § 26; 2009, No. 1469, § 22; 2011, No. 981, § 14; 2011, No. 989, §§ 75-77; 2011, No. 993, §§ 12-14; 2017, No. 542, § 4; 2017, No. 933, § 8; 2019, No. 910, § 1747; 2019, No. 1083, § 4.

Amendments. The 2019 amendment

by No. 910 substituted "Division of Elementary and Secondary Education" for "Department of Education" in (a)(5); and substituted "division" for "department" in (a)(6).

The 2019 amendment by No. 1083 substituted "Enhanced Student Achievement Funding" for "national school lunch state categorical funding" throughout (a)(3).

6-23-506. Assets of school as property of state.

(a) Upon dissolution of the open-enrollment public charter school or upon nonrenewal or revocation of the charter, all net assets of the open-enrollment public charter school, including any interest in real property, purchased with public funds shall be deemed the property of the state, unless otherwise specified in the charter of the open-enrollment public charter school.

(b)(1) If the open-enrollment public charter school used state funds to purchase or finance personal property, real property, or fixtures for use by the open-enrollment public charter school, the Division of Elementary and Secondary Education may require that the property be sold.

(2) The state has a perfected priority security interest in the net proceeds from the sale or liquidation of the property to the extent of the public funds used in the purchase.

History. Acts 1999, No. 890, § 7; 2007, No. 736, § 31; 2013, No. 509, § 16; 2019, No. 910, § 1748.

substituted “Division of Elementary and Secondary Education” for “Department of Education” in (b)(1).

Amendments. The 2019 amendment

6-23-507. Rules.

The State Board of Education shall have the authority to promulgate rules in accordance with other state and federal statutes and regulations to implement this subchapter and § 6-23-402.

History. Acts 1999, No. 890, § 7; 2019, No. 315, § 314.

deleted “and regulations” following “rules” in the section heading and in the section, and inserted “and regulations”.

Amendments. The 2019 amendment

SUBCHAPTER 7 — PUBLIC CHARTER SCHOOL AUTHORIZER

SECTION.

6-23-701. Designated public charter authorizer.

6-23-702. Public charter authorizing procedures — Notification.

SECTION.

6-23-703. State Board of Education optional review.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

6-23-701. Designated public charter authorizer.

(a) The Division of Elementary and Secondary Education is the designated public charter authorizer with jurisdiction and authority over all public charters issued in this state to take the following action on a proposed or established public charter:

- (1) Approve;
- (2) Reject;
- (3) Renew;
- (4) Nonrenew;
- (5) Place on probation;
- (6) Modify;
- (7) Revoke;
- (8) Deny;
- (9) Transfer; or
- (10) Assign.

(b)(1) The division shall exercise authority over public charter schools under this chapter through a public charter authorizing panel established within the division.

(2)(A) The Commissioner of Elementary and Secondary Education shall appoint a public charter authorizing panel that may consist of individuals from outside the division as well as professional staff employed at the division to serve at the pleasure of the commissioner.

(B) The commissioner may elect to serve as a member on the charter authorizing panel as the chair.

(3) The public charter authorizing panel is composed of an odd number of members and consists of no less than five (5) members and no more than eleven (11) members.

(c) The division may waive provisions of this title or State Board of Education rules as allowed by law for public charters.

(d)(1) The division shall conduct all hearings on public charter school matters as required by law, rule, and process and make final determinations as allowed by law.

(2)(A) A hearing under this chapter conducted by the division shall be an open meeting under § 25-19-106.

(B) For the purposes of § 25-19-106, the members of the public charter authorizing panel shall be considered a governing body only in regard to actions specifically authorized by this subchapter.

(3)(A) All decisions of the panel shall be made by majority vote of the quorum.

(B) A decision of the division is final except as provided under § 6-23-703.

(4) The Arkansas Administrative Procedure Act, § 25-15-201 et seq., shall not apply to a hearing concerning a public charter school.

(e) The division shall be the primary authorizer of public charters except as provided under § 6-23-703.

History. Acts 2013, No. 509, § 18; 2017, No. 462, § 1; 2019, No. 761, § 4; 2019, No. 910, § 1749.

Amendments. The 2019 amendment by No. 761 substituted “Nonrenew” for “Non-renew” in (a)(4); and added (a)(9) and (a)(10).

The 2019 amendment by No. 910 substituted “Division of Elementary and Sec-

ondary Education” for “Department of Education” in the introductory language of (a); substituted “division” for “department” throughout the section; and substituted “Commissioner of Elementary and Secondary Education” for “Commissioner of Education” in (b)(2)(A).

6-23-702. Public charter authorizing procedures — Notification.

(a) The State Board of Education shall adopt rules as necessary to administer this subchapter, including without limitation the procedure for:

(1) Hearings; and

(2) Administration of the public charter authorizing panel.

(b)(1) The Division of Elementary and Secondary Education shall notify in writing the state board, charter applicant, public charter school, and affected school districts, if any, of final decisions made by the division no less than fourteen (14) calendar days before the next regularly scheduled state board meeting after the final decision is made by the division.

(2)(A) A charter applicant, public charter school, and affected school district, if any, may submit in writing a request that the state board review the final decision of the division under § 6-23-703.

(B) The written request submitted under subdivision (b)(2)(A) of this section shall state the specific reasons supporting a review by the state board.

(3) The decision of whether to review a final decision of the division is discretionary by the state board and the provisions of this section and § 6-23-703 do not grant any right of appeal to a charter applicant, public charter school, or affected school district.

History. Acts 2013, No. 509, § 18; 2019, No. 910, § 1750.

Amendments. The 2019 amendment substituted “Division of Elementary and

Secondary Education” for “Department of Education” in (b)(1); and substituted “division” for “department” throughout (b).

6-23-703. State Board of Education optional review.

(a) On a motion approved by a majority vote, the State Board of Education may exercise a right of review of a charter determination made by the Division of Elementary and Secondary Education at the next regularly scheduled state board meeting after receiving notice provided under § 6-23-702(b).

(b) If the state board votes to review a final decision made by the division, the state board shall:

(1) State the specific additional information the state board requires from the division, public charter school, public charter school applicant, or affected school district;

(2) Conduct a full hearing regarding a final decision by the division under § 6-23-701(a); and

(3) Hold the hearing at the earlier of:

(A) The next regularly scheduled state board meeting following the state board meeting during which the state board voted to authorize a review; or

(B) A special board meeting called by the state board.

(c)(1) At the conclusion of the hearing, the state board may issue a final decision by state board vote.

(2) The state board may decide by majority vote of the quorum to:

(A) Affirm the decision of the division;

(B) Take other lawful action on the public charter; or

(C)(i) Request additional information from the division, public charter school, public charter school applicant, or affected school district, if needed.

(ii) If the state board requests additional information under subdivision (c)(2)(C)(i) of this section, the state board shall hold a subsequent hearing at the earlier of:

(a) The next regularly scheduled state board meeting; or

(b) A special board meeting called by the state board.

(3) A decision made by the state board is final with no right of appeal.

(d) The state board may promulgate rules as necessary to implement this section.

History. Acts 2013, No. 509, § 18; 2019, No. 910, § 1751.

Amendments. The 2019 amendment substituted "Division of Elementary and

Secondary Education" for "Department of Education" in (a); and substituted "division" for "department" throughout the section.

SUBCHAPTER 9 — OPEN-ENROLLMENT PUBLIC CHARTER SCHOOL FACILITIES LOAN FUND

SECTION.

6-23-907. Failure to remit payment.

6-23-908. Open-Enrollment Public Charter School Facilities Funding Aid Program.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019".

6-23-907. Failure to remit payment.

(a) If an open-enrollment public charter school fails to remit payment for an outstanding loan under the Open-Enrollment Public Charter School Facilities Loan Fund, upon certification of the amount of delinquent funds by the Division of Public School Academic Facilities and Transportation, the amount of delinquent funds including penalties and interest may be deducted from the operating funds designated to the open-enrollment public charter school through the Division of Elementary and Secondary Education and remitted directly by the Division of Elementary and Secondary Education to the Open-Enrollment Public Charter School Facilities Loan Fund if requested by the Division of Public School Academic Facilities and Transportation.

(b) The operating funds from which delinquent funds may be deducted for an open-enrollment public charter school are limited to:

(1) State funding distributed under § 6-20-2305, including without limitation state foundation funding and state categorical funding;

(2) Federal funding to the extent allowed under federal law; and

(3) The net assets of an open-enrollment public charter school deemed property of the state upon revocation or nonrenewal of the charter.

(c) The state shall hold a preferred security interest in the amount of the outstanding loan.

History. Acts 2013, No. 1255, § 1; 2019, No. 910, § 1752.

Amendments. The 2019 amendment, in (a), substituted “Division of Elementary and Secondary Education and remitted directly by the Division of Elementary and

Secondary Education” for “Department of Education and remitted directly by the department” and substituted the second occurrence of “Division of Public School Academic Facilities and Transportation” for “division”.

6-23-908. Open-Enrollment Public Charter School Facilities Funding Aid Program.

(a) There is created the Open-Enrollment Public Charter School Facilities Funding Aid Program.

(b)(1) An open-enrollment public charter school that meets the criteria under subsection (c) of this section is eligible to receive funding from the program on a pro rata distribution of available funding per student, based upon the open-enrollment public charter school’s previous year three-quarter average daily membership.

(2) For an open-enrollment public charter school in its first year of operation, the first year operating under a new license, the first year adding a new campus, or in any year a grade is added at any campus, the funding from the program shall be determined using the method under § 6-23-501(a)(2)(A).

(c) In addition to the open-enrollment public charter school’s successful completion of the charter application review and approval process, the open-enrollment public charter school shall meet all of the following criteria in order to receive funding under the program:

(1) Virtual technology is not the primary method of delivering instruction;

(2) The facility meets all applicable health, fire, and safety codes and all accessibility requirements under the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq., and the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq., as reviewed by the Division of Public School Academic Facilities and Transportation or another appropriate state agency; and

(3) The open-enrollment public charter school is not:

(A) Classified as in need of Level 5 — Intensive support under § 6-15-2915 or in fiscal distress under the Arkansas Fiscal Assessment and Accountability Program, § 6-20-1901 et seq., and the corresponding rules adopted by the State Board of Education;

(B) In receipt of a rating of “F” under § 6-15-2105; or

(C) Placed in probationary status by the state charter school authorizer under § 6-23-105.

(d) The funds received by an open-enrollment public charter school under this section shall be used only for the lease, purchase, renovation, repair, construction, installation, restoration, alteration, modification, or operation and maintenance of an approved facility that meets the requirements of subsection (c) of this section.

(e)(1) If an open-enrollment public charter school fails to use funds received under this section as provided under subsection (d) of this section or no longer has the need for the funds, the Division of Public School Academic Facilities and Transportation shall certify and recoup the funds from the operating funds designated to the open-enrollment public charter school through the Division of Elementary and Secondary Education and remitted directly by the Division of Elementary and Secondary Education.

(2) The operating funds from which the Division of Public School Academic Facilities and Transportation may recoup funds from an open-enrollment public charter school are limited to:

(A) State funding distributed under § 6-20-2305, including without limitation state foundation funding and state categorical funding;

(B) Federal funding to the extent allowed under federal law; and

(C) The net assets of an open-enrollment public charter school deemed property of the state upon revocation or nonrenewal of the charter after all legal debts owed to third parties are satisfied.

(3) The state shall hold a preferred security interest in the funds received under this section as provided under subsection (d) of this section or the amount of funds no longer needed.

(f) This section does not entitle or subject an open-enrollment public charter school to the Arkansas Public School Academic Facilities Funding Act, § 6-20-2501 et seq., or the Arkansas Public School Academic Facilities Program Act, § 6-21-801 et seq.

(g) The Commission for Arkansas Public School Academic Facilities and Transportation may promulgate rules to implement this section.

History. Acts 2015, No. 739, § 1; 2017, No. 933, § 9; 2019, No. 757, § 58; 2019, No. 910, § 1753.

Amendments. The 2019 amendment by No. 757 substituted “in need of Level 5 – Intensive support under § 6-15-2915” for “in academic distress under § 6-15-428 [repealed]” in (c)(3)(A); and rewrote (c)(3)(B).

The 2019 amendment by No. 910 substituted “Division of Public School Aca-

demic Facilities and Transportation” for “division” in (e)(1) and the introductory language of (e)(2); and substituted “Division of Elementary and Secondary Education and remitted directly by the Division of Elementary and Secondary Education” for “Department of Education and remitted directly by the department” at the end of (e)(1).

SUBCHAPTER 10 — ADULT EDUCATION CHARTER SCHOOL

SECTION.

- 6-23-1001. Application for adult education charter school.
- 6-23-1002. Authorization for adult education public charter.

SECTION.

- 6-23-1003. Resubmission of applications.
- 6-23-1007. Reporting.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

6-23-1001. Application for adult education charter school.

(a)(1) An eligible entity may apply to the authorizer for adult education charter school status for an adult education program that offers a curriculum that culminates in:

- (A) A high school diploma; and
- (B) An industry certification.

(2) An adult education charter school shall be recognized by the State Board of Education as an open-enrollment public charter school.

(3) An adult education charter school does not count toward the cap for open-enrollment public charter schools under § 6-23-304(c).

(b) A nonprofit entity’s application for an adult education charter school shall include without limitation a:

(1) History of the nonprofit entity’s success in providing education services, including industry certifications and job placement services, to adults eighteen (18) years of age and older whose educational and

training opportunities have been limited by educational disadvantages, disabilities, homelessness, criminal history, or similar circumstances;

(2)(A) Pledge to commit at least one million dollars (\$1,000,000) to the adult education public charter school, if approved.

(B) Up to twenty-five percent (25%) of the commitment may be in-kind.

(C) A nonprofit entity that is opening an additional adult education public charter school under this section is not required to commit one million dollars (\$1,000,000) for the additional adult education public charter school if it has already pledged to commit at least one million dollars (\$1,000,000) to an adult education public charter school under subdivision (b)(2)(A) of this section;

(3) Description of any partnership with a state-supported two-year institution of higher education, if anticipated;

(4)(A) Description of testimony from a public hearing in the community where the adult education charter school is planned.

(B) A copy of the notice of the public hearing that documents that the notice was published in a newspaper having general circulation in the community where the adult education charter school is planned at least three (3) weeks before the date of the public hearing;

(5) Comprehensive plan of how the adult education charter school will meet the industry needs for a sufficiently trained workforce in the state;

(6) Strategy for engaging the community, including business leaders, in carrying out the goals and objectives of the adult education charter school;

(7) Description of the proposed performance criteria that will be used during the initial five-year period of the charter to measure the progress of the adult education charter school in meeting the industry needs for a sufficiently trained workforce in the state;

(8) Detailed budget and governance plan for the operation of the adult education charter school; and

(9) List of any specific state laws or rules of the State Board of Education from which the adult education public charter wishes to be exempt with an explanation of why the exemption is needed.

History. Acts 2015, No. 1200, § 2; inserted “public” in (b)(2)(A); and added 2019, No. 960, § 1. (b)(2)(C).

Amendments. The 2019 amendment

6-23-1002. Authorization for adult education public charter.

The authorizer shall review an application for an adult education public charter school and may approve an application that:

(1) Provides an acceptable plan for meeting the industry needs for a sufficiently trained workforce in the state;

(2) Includes a set of performance criteria objectives for the terms of the charter and the means for measuring the performance criteria objectives on a yearly basis;

- (3) Includes a comprehensive strategy for engaging the community, including without limitation business leaders, in the process of meeting the goals and objectives of the adult education public charter;
- (4) Includes an agreement to provide an annual report to the community that indicates the progress made by the adult education public charter school in meeting the performance criteria objectives during the previous year; and
- (5) Includes an appropriate budget and governance plan.

History. Acts 2015, No. 1200, § 2; lot program” following “school”; in (3), 2019, No. 960, § 2. inserted “without limitation” and inserted “adult education public”; inserted “public” in (4); and made a stylistic change.

Amendments. The 2019 amendment, in the introductory language, deleted “pi-

6-23-1003. Resubmission of applications.

- (a) The authorizer may allow an applicant to resubmit an application for an adult education public charter school if the original application was, in the opinion of the authorizer, deficient in one (1) or more respects.
- (b) The Division of Elementary and Secondary Education may provide technical assistance to an adult education public charter school applicant in the creation or modification of its application.

History. Acts 2015, No. 1200, § 2; The 2019 amendment by No. 960 inserted “public” in (a) and (b); and made 2019, No. 910, § 1754; 2019, No. 960, § 3. stylistic changes.

Amendments. The 2019 amendment by No. 910 substituted “Division of Elementary and Secondary Education” for “Department of Education” in (b).

6-23-1007. Reporting.

- The Division of Elementary and Secondary Education shall report to the Senate Committee on Education and the House Committee on Education by December 1 each year concerning:
- (1) Evaluations of any adult education charter schools operating under this subchapter in the state, including the impact on meeting industry needs and addressing the workforce needs in the state; and
 - (2) Recommendations regarding the abolition, expansion, or modifications of the subchapter.

History. Acts 2015, No. 1200, § 2; substituted “Division of Elementary and 2019, No. 910, § 1755. Secondary Education” for “Department of Education” in the introductory language.

Amendments. The 2019 amendment

CHAPTER 24

ETHICAL GUIDELINES AND PROHIBITIONS

SECTION.	SECTION.
6-24-107. Employees.	cable to administrators
6-24-112. Gratuities and kickbacks.	and employees.
6-24-114. Administrative remedies appli-	6-24-119. Rules.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

6-24-104. General prohibition.

(a) No board member, administrator, or employee shall knowingly use or attempt to use his or her official position to secure unwarranted privileges or exemptions for himself or herself or others.

(b) While serving as a board member, administrator, or employee, an individual shall not accept employment, contract, or engage in any public or professional activity that a reasonable person would expect might require or induce him or her to disclose any information acquired by the member by reason of his or her official position that is declared by law or rule to be confidential.

(c) No board member, administrator, or employee shall knowingly disclose any confidential information gained by reason of his or her position, nor shall the member knowingly otherwise use such information for his or her personal gain or benefit.

(d) Nothing in this chapter prohibits board members, administrators, or employees of public educational entities from donating services or property to a public educational entity.

History. Acts 2001, No. 1599, § 4; 2019, No. 315, § 315.	Amendments. The 2019 amendment substituted “rule” for “regulation” in (b).
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6-24-106. Administrators.

(a) GENERAL PROHIBITION.

(1) Except as otherwise provided, it is a breach of the ethical standards of this chapter for an administrator to contract with the public educational entity employing him or her if the administrator has knowledge that he or she is directly or indirectly interested in the contract.

(2) Except as otherwise provided, it is a breach of the ethical standards of this chapter for an administrator to contract with any public educational entity if the administrator has knowledge that he or she is directly interested in the contract.

(b) FAMILY MEMBERS AS EMPLOYEES.

(1) This chapter does not prohibit an administrator's family members from being employed by the public educational entity the administrator serves or any other public educational entity.

(2)(A) However, a member of an administrator's family or former spouse may not be initially employed as a disbursing officer of the public educational entity where the administrator is employed unless the public educational entity receives written approval from the Commissioner of Elementary and Secondary Education.

(B) Before issuing a written approval or denial, the commissioner shall request Arkansas Legislative Audit to review the internal controls, including the segregation of duties, present at the public educational entity.

(C) Arkansas Legislative Audit shall report its findings in writing to the commissioner.

(c) EXCEPTIONS.

(1) In unusual and limited circumstances and only with prior written approval from the commissioner, an administrator may contract with a public educational entity other than the public educational entity employing him or her.

(2) In unusual and limited circumstances and only with prior written approval from the commissioner, an administrator's family members may contract with a public educational entity employing the administrator.

(3)(A) An administrator seeking to contract with other public educational entities, or an administrator's family member seeking to contract with the public educational entity employing the administrator, shall first present the request, with all relevant facts and circumstances justifying approval, to the board currently employing the administrator at an open meeting.

(B)(i) After reviewing the request in an open meeting, the board may, by written resolution, approve the contract subject to approval by the commissioner.

(ii) A copy of the approval resolution and all relevant data shall be forwarded by the board president to the commissioner.

(iii) The written resolution and other relevant data shall be sent by certified mail, return receipt requested, or other method approved by the State Board of Education to assure that adequate notice has been received by the Division of Elementary and Secondary Education and to provide a record for the school district board of directors sending the request for approval.

(4)(A) Upon review of the submitted data, the commissioner shall, within twenty (20) days of receipt of the resolution and other relevant data, approve or disapprove in writing the board's request.

(B)(i) The commissioner may request additional information or testimony before ruling on a request.

(ii) If additional data is needed for a proper determination, the commissioner shall approve or disapprove the contract within twenty (20) days of receipt of the additional requested data.

(C) If the commissioner does not respond to the public educational entity within the twenty-day period or request additional time or data for a proper review of the contract, the contract shall be deemed to be approved by the commissioner.

(5)(A) If approved, the approval letter shall state all relevant facts and circumstances considered in the approval and shall state any restrictions or limitations of the approval.

(B) The commissioner may grant an approval for a particular transaction or a series of related transactions. No approval shall be granted for a period greater than two (2) complete and consecutive fiscal years.

(6) The division and the public educational entity shall maintain, under their respective record retention policies, a record and copy of all documentation relating to an exemption from the provisions of this chapter.

(7) A contract subject to this subsection is not valid until the commissioner:

(A) Approves the contract; or

(B) Fails to respond to the public educational entity within the time periods specified in this section.

(d) PROVIDING FALSE OR INCOMPLETE INFORMATION. Any administrator knowingly furnishing false information or knowingly not fully disclosing relevant information necessary for a proper determination by the public educational entity or the commissioner shall be guilty of violating the provisions of this chapter.

(e) “CONTRACT” DEFINED. For the purposes of this section, “contract” does not apply to employment contracts issued to an administrator of a public educational entity for administrative or other duties such as, but not limited to, teaching, bus driving, or sponsorship of clubs or activities.

(f) COMPENSATION FOR OFFICIATING ATHLETIC EVENTS. Nothing in this section prohibits administrators from receiving compensation for officiating school-sponsored athletic activities with any public educational entity.

(g) COMPENSATION FOR CONDUCTING SEMINARS. Nothing in this section prohibits administrators from receiving compensation for conducting seminars for, or making presentations to, public educational entities other than the public educational entity employing them.

History. Acts 2001, No. 1599, § 6; 2009, No. 376, § 47; 2011, No. 878, § 2; 2013, No. 608, § 3; 2015, No. 846, § 33; 2019, No. 910, §§ 1756-1758.

Amendments. The 2019 amendment substituted “Commissioner of Elementary and Secondary Education” for “Commissioner of Education” in (b)(2)(A); and sub-

stituted "Division of Elementary and Secondary Education" for "Department of Education" in (c)(3)(B)(iii) and (c)(6).

6-24-107. Employees.

(a) **GENERAL PROVISION.** Except as otherwise provided, it is a breach of the ethical standards of this chapter for an employee to contract with the public educational entity employing him or her if the employee has knowledge that he or she is directly interested in the contract.

(b) **EXCEPTIONS.**

(1) **APPROVAL BY BOARD.**

(A) In unusual and limited circumstances, a public educational entity's board may approve a contract between the public educational entity and an employee if the board determines that the contract is in the best interest of the public educational entity.

(B)(i) The approval by the public educational entity's board shall be documented by written resolution after fully disclosing the reasons justifying the contract in an open meeting.

(ii) The resolution shall state the unusual circumstances necessitating the contract and shall document the restrictions and limitations of the contract.

(C) Any board member directly or indirectly interested in the proposed contract shall leave the meeting until the voting on the issue is concluded, and the absent member shall not be counted as having voted.

(2) **INDEPENDENT APPROVAL.**

(A)(i) If it appears that the total transactions with an employee for a fiscal year total, or will total, ten thousand dollars (\$10,000) or more, the superintendent or other chief administrator of the public educational entity shall forward the written resolution along with all relevant data to the Commissioner of Elementary and Secondary Education for independent review and approval.

(ii) The written resolution and other relevant data shall be sent by certified mail, return receipt requested, or other method approved by the State Board of Education to assure that adequate notice has been received by the Division of Elementary and Secondary Education and to provide a record for the school district board of directors sending the request for approval.

(B)(i) Upon review of the submitted data, the commissioner shall, within twenty (20) days of receipt of the resolution and other relevant data, approve or disapprove in writing the board's request.

(ii)(a) The commissioner may request additional information or testimony before ruling on a request.

(b) If additional data is needed for a proper determination, the commissioner shall approve or disapprove the contract within twenty (20) days of receipt of the additional requested data.

(iii) If the commissioner does not respond to the public educational entity within the twenty-day period or request additional time or

data for a proper review of the contract, the contract shall be deemed to be approved by the commissioner.

(C)(i) If approved, the commissioner shall issue an approval letter stating all relevant facts and circumstances considered and any restrictions or limitations pertaining to the approval.

(ii)(a) The commissioner may grant the approval for a particular transaction or a series of related transactions.

(b) However, approval shall not be granted for a period greater than two (2) complete and consecutive fiscal years.

(D) No contract subject to the commissioner's review and approval shall be valid or enforceable until an approval letter has been issued by the commissioner or the commissioner fails to respond to the public educational entity within the time periods specified in this section.

(c) **DOCUMENTATION.** The division and the public educational entity shall maintain, under their respective record retention policies, a record and copy of all documentation relating to transactions with employees.

(d) **PROVIDING FALSE OR INCOMPLETE INFORMATION.** Any employee or other person knowingly furnishing false information or knowingly not fully disclosing relevant information necessary for a proper determination by the public educational entity or the commissioner shall be guilty of violating the provisions of this chapter.

(e) **"CONTRACT" DEFINED.** For the purposes of this section, the term "contract" does not apply to employment contracts issued to public educational entity employees or other transactions for the performance of teaching or other related duties such as, but not limited to, bus driving, sponsorship of clubs or activities, or working at school-sponsored events.

(f) **TECHNOLOGY EMPLOYEES.** All transactions involving the purchase, lease, acquisition, or other use of computers, software, copiers, or other electronic devices from family members of an employee responsible for establishing specifications or approving purchases of such equipment shall be approved according to the requirements of this section regarding the purchase from an employee with a direct interest in the transaction.

History. Acts 2001, No. 1599, § 7; 2011, No. 878, § 3; 2013, No. 608, § 4; 2015, No. 846, § 34; 2019, No. 910, §§ 1759, 1760.

Amendments. The 2019 amendment substituted "Commissioner of Elementary

and Secondary Education" for "Commissioner of Education" in (b)(2)(A)(i); substituted "Division of Elementary and Secondary Education" for "Department of Education" in (b)(2)(A)(ii); and substituted "division" for "department" in (c).

6-24-112. Gratuities and kickbacks.

(a) It is a breach of the ethical standards of this chapter for any person to offer, give, or agree to give any board member, administrator, or employee a gratuity or an offer of employment in connection with any contract or transaction of a public educational entity.

(b) It is a breach of the ethical standards of this chapter for any board member, administrator, or employee to solicit, demand, accept, or agree to accept from another person or entity a gratuity or an offer of employment in connection with any contract or transaction of a public educational entity.

(c) It is a breach of the ethical standards of this chapter for any payment, gratuity, or offer of employment to be made by or on behalf of a person or an entity as an inducement for the award of a contract or transaction with a public educational entity.

(d) The State Board of Education shall issue specific rules regarding educational or work-related travel, conventions, seminars, and other benefits provided by vendors.

History. Acts 2001, No. 1599, § 12; deleted “and regulations” following “rules” 2019, No. 315, § 316. in (d).

Amendments. The 2019 amendment

6-24-114. Administrative remedies applicable to administrators and employees.

(a)(1) The Division of Elementary and Secondary Education may review alleged violations of this chapter. If the division reviews the allegations and the Commissioner of Elementary and Secondary Education determines that there is adequate evidence of a violation, the commissioner may refer the allegations to the State Board of Education for review.

(2) Upon the state board’s approval to review the alleged violation and after reasonable notice in writing to all parties, the state board may schedule a hearing to determine whether an administrator or employee has knowingly violated the provisions of this chapter.

(3) After presentation of all evidence, if the state board determines that the administrator or employee knowingly violated the provisions of this chapter, the state board may provide any or all of the following administrative remedies:

(A) Issue a letter of reprimand; or

(B) Suspend or revoke the administrator’s or teacher’s Arkansas teaching license for a definite period, or permanently.

(b)(1) After reasonable notice and opportunity for a hearing, a board of a public educational entity may take appropriate administrative remedies against an administrator or employee that has allegedly violated the provisions of this chapter.

(2) If an administrator or employee of a public educational entity is charged by the prosecuting attorney for a possible violation of this chapter, the public educational entity’s board may, after reasonable notice and opportunity for a hearing, place the individual charged on leave, with or without pay, dismiss the individual, or provide any other proper administrative remedy.

(3) If the individual is dismissed by the board due to charges being filed for an alleged violation of this chapter, any employment contracts

with the public educational entity shall be deemed void from the date of the action of the board.

History. Acts 2001, No. 1599, § 14; 2019, No. 910, § 1761.

Amendments. The 2019 amendment, in (a)(1), substituted “Division of Elementary and Secondary Education” for “Department of Education” in the first sen-

tence, and in the second sentence, substituted “division” for “department” and substituted “Commissioner of Elementary and Secondary Education” for “Commissioner of Education”.

6-24-119. Rules.

In order to administer the provisions of this chapter, the State Board of Education shall adopt rules consistent with the provisions and intent of this chapter.

History. Acts 2001, No. 1599, § 19; 2019, No. 315, § 317.

deleted “and regulations” following “rules” in the section heading and in the section.

Amendments. The 2019 amendment

SUBTITLE 3. SPECIAL EDUCATIONAL PROGRAMS

CHAPTER 41

CHILDREN WITH DISABILITIES

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. CHILDREN WITH DISABILITIES ACT OF 1973.
3. SPECIAL EDUCATION PROGRAMS GENERALLY.
4. IMPROVEMENT OF EDUCATIONAL SERVICES FOR VISUALLY IMPAIRED STUDENTS.
6. DYSLEXIA AND RELATED DISORDERS.
8. BUILDING BETTER FUTURES HIGH SCHOOL PROGRAM.
9. SUCCEED SCHOLARSHIP PROGRAM.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

- 6-41-101. Services to children with disabilities in nonpublic schools.
- 6-41-104. Services for children determined in another state to be eligible for services due to behavioral disability.

Effective Dates. Acts 2019, No. 910, § 6346(b); July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act estab-

lishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries' and "Transformation and Efficiencies Act transition team" should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the

fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019".

6-41-101. Services to children with disabilities in nonpublic schools.

(a) Before expending any funding for new programs for children with disabilities that include funding for evaluation, counseling, assessment, personnel, equipment, or other capital outlay in other than public schools, the Division of Career and Technical Education shall publish a public notice of the intent to provide additional special services to children with disabilities, specifying the services in the public notice, and inviting organizations that are recognized by the state to provide education, assessment, jobs skills training, or vocational education to children with disabilities to submit proposals to provide the additional special services.

(b) The division may award one (1) or more contracts to any organization that can fulfill the goals and objectives of the program, or the division may assume responsibility for implementing the program.

History. Acts 1987, No. 1048, § 12; 1993, No. 294, § 14; 1999, No. 1323, § 25; 2019, No. 910, § 1762.

Amendments. The 2019 amendment substituted "Division of Career and Tech-

nical Education" for "Department of Career Education" in (a); substituted "division" for "department" twice in (b); and made a stylistic change.

6-41-104. Services for children determined in another state to be eligible for services due to behavioral disability.

(a) This section applies to a child who:

(1) Enrolls for the first time in special education services at an Arkansas public school; and

(2) Has been previously determined by a school district in another state to be eligible for special education services due to a behavioral disability.

(b) The Arkansas public school district shall conduct an evaluation of the child consistent with federal and state rules to determine the appropriate special education disability category recognized in this state, if any.

(c)(1) If a child with a disability who had an individualized education program that was in effect in a previous public agency in another state transfers to a public agency in this state and enrolls in a new school within the same school year, the new public agency in consultation with the parents must provide the child with free appropriate public education including services comparable to those described in the child's

individualized education program from the previous public agency until such time as the new public agency:

(A) Conducts an evaluation pursuant to 34 C.F.R. § 300.304 through 34 C.F.R. § 300.306, if determined to be necessary by the new public agency; and

(B) Develops, adopts, and implements a new individualized education program, if appropriate, that meets the applicable requirements in 34 C.F.R. § 300.320 through 34 C.F.R. § 300.324.

(2) If the child’s behavior results in an out-of-school suspension of ten (10) or more consecutive or nonconsecutive days or an expulsion during the period of time the child receives special education services under the disability category of behavioral disability, the child’s individualized education program team shall meet to review the child’s individualized education program, including the behavioral needs of the child and the current placement of the child, consistent with federal and state rules dealing with special education and related services.

(d) The Division of Elementary and Secondary Education shall have the authority to promulgate rules as necessary to carry out the provisions of this section.

History. Acts 2009, No. 377, § 1; 2019, No. 910, § 1763. substituted “Division of Elementary and Secondary Education” for “Department of Education” in (d).
Amendments. The 2019 amendment

SUBCHAPTER 2 — CHILDREN WITH DISABILITIES ACT OF 1973

- SECTION.
- 6-41-203. Definitions.
 - 6-41-207. Duties of the State Board of Education.
 - 6-41-210. Special Education Unit for children with disabilities.
 - 6-41-211. Advisory Council for the Education of Children with Disabilities.

- SECTION.
- 6-41-215. Tests and examinations — Evaluation of child.
 - 6-41-216. Tests and evaluations — Change of child’s status — Hearings.

Effective Dates. Acts 2019, No. 910, § 6346(b); July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

6-41-203. Definitions.

As used in this subchapter:

(1) “A child with a disability” means a person evaluated in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq., as having an intellectual disability, a hearing impairment, including without limitation deafness, a speech or language impairment, a visual impairment, including without limitation blindness, emotional disturbance, an orthopedic impairment, autism, traumatic brain injury, other health impairments, a specific learning disability, deaf-blindness, or multiple disabilities and who, by reason thereof, needs special education and related services;

(2) “Board” means the State Board of Education;

(3) “Free appropriate public education” means special education and related services that:

(A) Are provided at public expense, under public supervision, and without charge;

(B) Meet the standards of the Division of Elementary and Secondary Education and the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq., as it existed on January 1, 2017;

(C) Include an appropriate preschool, elementary school, or secondary school education; and

(D) Are provided in conformity with an individualized education program that meets the requirements of the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq., as it existed on January 1, 2017; and

(4)(A) “Special education” means specially designed instruction at no cost to the parents to meet the unique needs of a child with a disability, including instruction conducted in the classroom, in the home, in hospitals and institutions, in other settings, and instruction in physical education.

(B) Special education includes each of the following, if the services otherwise meet the requirements of this definition:

(i) Speech-language pathology services or any other related service if the service is considered special education rather than a related service under state standards;

(ii) Travel training; and

(iii) Vocational education.

History. Acts 1973, No. 102, §§ 2, 10, 11; 1975, No. 641, § 4; 1979, No. 1055, § 1; A.S.A. 1947, §§ 80-2116, 80-2124, 80-2125; Acts 1989, No. 943, § 1; 1991, No. 204, § 1; 1991, No. 823, § 1; 1993, No. 294, § 14; 1999, No. 391, §§ 23, 24; 2007,

No. 1573, § 35; 2017, No. 874, §§ 2, 3; 2019, No. 910, § 1764.

Amendments. The 2019 amendment substituted “Division of Elementary and Secondary Education” for “Department of Education” in (3)(B).

6-41-207. Duties of the State Board of Education.

(a) The State Board of Education is empowered to initiate, inspect, approve, and supervise a program of education for children with disabilities as defined in this subchapter.

(b) It is also designated as the agency for cooperation with the state and United States governments, the approved treatment centers, the institutions, and the local schools in carrying out the provisions of this subchapter.

(c) The state board shall make the necessary rules in keeping with the provisions of this subchapter and shall employ the necessary personnel for the proper administration of this subchapter if funds are made available for this purpose.

(d) The state board shall have authority to require such reports as it deems advisable so long as the requirements are in keeping with this subchapter.

(e) The state board, in keeping with federal requirements, is designated as the agency having general educational supervision over public agencies which provide educational services to children with disabilities as defined in this subchapter to ensure that each public agency complies with state rules and federal regulations pursuant to the education of children with disabilities.

(f)(1) The state board, in compliance with federal enforcement requirements, is authorized to disallow the generation of all state aid to children with disabilities to any local school district or education service cooperative that fails to comply with state rules and federal regulations, as determined by independent hearing officers, agency hearing decisions, agency complaint investigation decisions, agency compliance monitoring reports, or agency jurisdictional decisions.

(2) The state board is authorized to set aside funds disallowed under this subsection and to utilize such funds for the provision of a free and appropriate public education to appropriate children with disabilities.

History. Acts 1973, No. 102, §§ 14, 24; A.S.A. 1947, §§ 80-2128, 80-2138; Acts 1989, No. 703, § 4; 1993, No. 294, § 14; 2019, No. 315, §§ 318-320.

Amendments. The 2019 amendment deleted “and regulations” following “rules” in (c); and inserted “rules” in (e) and (f)(1).

6-41-210. Special Education Unit for children with disabilities.

(a) There is established in the Division of Elementary and Secondary Education a Special Education Unit.

(b) The unit shall be headed by a director, who shall be qualified by education, training, and experience to take responsibility for, and give direction to, the programs of the division relating to children with disabilities.

(c) Implementation of this section shall be dependent upon funds being made available to the division for this purpose.

History. Acts 1973, No. 102, § 12; A.S.A. 1947, § 80-2126; Acts 1993, No. 294, § 14; 2019, No. 757, § 59; 2019, No. 910, § 1765.

Amendments. The 2019 amendment by No. 757 substituted "Special Education Unit" for "Special Education Section" in (a); and substituted "unit" for "section"

and "a director" for "an associate director" in (b).

The 2019 amendment by No. 910 substituted "Division of Elementary and Secondary Education" for "Department of Education" in (a); and substituted "division" for "department" in (b) and (c).

6-41-211. Advisory Council for the Education of Children with Disabilities.

(a)(1) There shall be an Advisory Council for the Education of Children with Disabilities, which shall advise and consult with the Commissioner of Elementary and Secondary Education and the Director of the Special Education Unit and which shall engage in such other activities as are set forth in this section.

(2) The council shall be advisory only and shall have no administrative responsibility or authority.

(b)(1) The council shall be composed of individuals involved in, or concerned with, the education of children with disabilities, including:

(A) Parents of persons from birth to twenty-six (26) years of age with disabilities;

(B) Individuals with disabilities;

(C) Teachers;

(D) Representatives of institutions of higher education that prepare special education and related services personnel;

(E) State and local education officials, including officials who carry out activities under subtitle B of Title VII of the McKinney-Vento Homeless Assistance Act, 42 U.S.C. § 11431 et seq.;

(F) Administrators of programs for children with disabilities;

(G) Representatives of other state agencies involved in the financing or delivery of related services to children with disabilities;

(H) Representatives of private schools and public charter schools;

(I) Not fewer than one (1) representative of a vocational, community, or business organization concerned with the provision of transitional services to children with disabilities;

(J) Representatives from the state juvenile and adult corrections agencies; and

(K) A representative from the Arkansas child welfare agency responsible for foster care.

(2) A majority of the members of the panel shall be individuals with disabilities or parents of persons from birth to twenty-six (26) years of age with disabilities.

(c)(1) The commissioner shall appoint the members of the council for three-year terms.

(2) Appointees may be eligible for reappointment for one (1) term.

(d) Vacancies which leave unexpired terms shall be filled in the regular manner for the unexpired period of time, and vacancies as a result of expiration of terms shall be filled in the regular manner for three-year periods.

- (e) The council shall elect annually its own chair and vice chair.
- (f) The director shall meet with and act as secretary to the council and, subject to the availability of personnel, facilities, and appropriations, shall furnish meeting facilities and staff services for the council.
- (g) The council shall:
 - (1) Advise the Division of Elementary and Secondary Education of unmet needs within the state in the education of children with disabilities;
 - (2) Comment publicly on any rules proposed by the state regarding the education of children with disabilities;
 - (3) Advise the division in developing evaluations and reporting on data to the United States Secretary of Education under 20 U.S.C. § 1418;
 - (4) Advise the division in developing corrective action plans to address findings identified in federal monitoring reports under Title 20, Chapter 33, Subchapter II of the United States Code; and
 - (5) Advise the division in developing and implementing policies relating to the coordination of services for children with disabilities.

History. Acts 1973, No. 102, § 15; 1975, No. 641, § 6; A.S.A. 1947, § 80-2129; Acts 1993, No. 294, § 14; 1995, No. 1296, § 30; 1999, No. 391, §§ 27, 28; 2005, No. 2151, § 28; 2009, No. 376, § 49; 2019, No. 315, § 321; 2019, No. 757, § 60; 2019, No. 910, §§ 1766, 1767.

Amendments. The 2019 amendment by No. 315 deleted “or regulations” following “rules” in (g)(2).

The 2019 amendment by No. 757 substituted “Director of the Special Education

Unit” for “Associate Director of the Special Education Section” in (a)(1).

The 2019 amendment by No. 910, in (a)(1), substituted “Commissioner of Elementary and Secondary Education” for “Commissioner of Education”; substituted “Division of Elementary and Secondary Education” for “Department of Education” in (g)(1); and substituted “division” for “department” in (g)(3), (g)(4), and (g)(5).

6-41-215. Tests and examinations — Evaluation of child.

- (a) Every school district shall test and examine, or cause to be tested and examined, each child it believes has disabilities.
- (b) The tests and examinations shall be administered in accordance with rules of the State Board of Education.
- (c) The evaluation shall be made by a multidisciplinary team or group of persons, including at least one (1) teacher or other specialist with knowledge in the area of suspected disability.
- (d) The child shall be assessed in all areas related to the suspected disability, including, when appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.
- (e) No single procedure shall be used as the sole criterion for determining an appropriate educational program for a child.

History. Acts 1973, No. 102, § 19; 1975, No. 641, § 7; 1979, No. 1055, § 2; 1981, No. 829, § 1; 1983, No. 762, § 1;

A.S.A. 1947, § 80-2133; Acts 1993, No. 294, § 14; 2019, No. 315, § 322.

Amendments. The 2019 amendment

deleted "and regulations" following "rules" in (b).

6-41-216. Tests and evaluations — Change of child's status — Hearings.

(a) All decisions pertaining to change in the educational status of a child shall follow due process procedures established by the State Board of Education.

(b) Due process shall include:

(1) Providing for prior notification to parents of testing and provision of special education services;

(2) The right to request educational evaluation and special education services; and

(3) The right to hearing and appeal of educational decisions.

(c)(1) The state board shall prescribe rules governing hearings and appeals.

(2) Hearings shall be conducted by individuals referred to as "hearing officers" under this section.

(3)(A) The Special Education Unit shall establish standards and qualifications for individuals to serve as hearing officers.

(B) Neither an employee of the Division of Elementary and Secondary Education nor an employee of the local school district involved in a particular hearing may serve as a hearing officer.

(C) Professional service contracts with individuals made for the purpose of compensating them for services rendered in connection with hearings shall not constitute employment.

(d) An individual serving as a qualified hearing officer at an assigned hearing shall be immune from civil suit brought by either party for the consequences of actions required of a hearing officer.

(e)(1) An individual serving as a qualified hearing officer under this section shall have the power to issue subpoenas and to bring before him or her as a witness any person in this state.

(2) The hearing officer shall issue a subpoena upon the request of any party to a pending proceeding.

(3) The writ shall be directed to the sheriff of the county where the witness resides or may be found.

(4) The writ may require the witness to bring with him or her any book, writing, or other thing under the witness's control that he or she is bound by law to produce in evidence.

(5) Service of the writ shall be in the manner as provided by law for the service of subpoenas in civil cases.

(f)(1) A witness who has been served by subpoena in the manner provided by law and who shall have been paid or tendered the legal fees for travel and attendance as provided by law shall be obligated to attend for examination of the trial of the cause pending before the due process hearing officer.

(2) In the event that a witness has been served with subpoenas as provided under this section and fails to attend the hearing in obedience

to the subpoena, the hearing officer may apply to the circuit court of the county in which the hearing officer is having the hearing for an order causing the arrest of the witness and directing that the witness be brought before the court.

(3) The court shall have the power to punish the disobedient witness for contempt as provided by law in the trial of civil cases.

(4) The disobedient witness shall be liable in damages for nonattendance to the trial or hearing as provided by law.

(g) Any party aggrieved by the findings and final decision made by the hearing officer shall have ninety (90) days from the date of the decision of the hearing officer to bring a civil action with respect to the complaint presented in either federal district court or a state court of competent jurisdiction pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq., as amended, without regard to the amount, if any, in controversy.

History. Acts 1973, No. 102, § 19; 1975, No. 641, § 7; 1979, No. 1055, § 2; 1981, No. 829, § 1; 1983, No. 762, § 1; A.S.A. 1947, § 80-2133; Acts 1995, No. 203, § 1; 1997, No. 369, § 1; 1997, No. 1182, § 1; 2003, No. 1365, § 1; 2005, No. 2151, § 29; 2017, No. 874, § 5; 2019, No. 315, § 323; 2019, No. 757, § 61; 2019, No. 910, § 1768.

Amendments. The 2019 amendment

by No. 315 deleted “and regulations” following “rules” in (c)(1).

The 2019 amendment by No. 757 substituted “Special Education Unit” for “Special Education Section” in (c)(3)(A).

The 2019 amendment by No. 910 substituted “Division of Elementary and Secondary Education” for “Department of Education” in (c)(3)(B).

SUBCHAPTER 3 — SPECIAL EDUCATION PROGRAMS GENERALLY

SECTION.
6-41-312. Reports.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

6-41-312. Reports.

(a) Public school districts and entities receiving state or federal funds to provide special education programming shall keep an accurate account, in the manner and on the forms prescribed by the Division of

Elementary and Secondary Education, of all moneys expended for special education programs and shall report those expenditures to the division.

(b) A report of the average daily attendance of all students enrolled, including students receiving instruction in the homebound setting, will be made to the division.

History. Acts 1971, No. 39, § 9; A.S.A. 1947, § 80-2109; Acts 2017, No. 874, § 9; 2019, No. 910, § 1769.

Amendments. The 2019 amendment substituted “Division of Elementary and Secondary Education” for “Department of Education” in (a); and substituted “division” for “department” in (a) and (b).

SUBCHAPTER 4 — IMPROVEMENT OF EDUCATIONAL SERVICES FOR VISUALLY IMPAIRED STUDENTS

SECTION.

- 6-41-402. Definitions.
- 6-41-403. Assessment of student progress.
- 6-41-404. Braille instruction.
- 6-41-405. Electronic textbooks.

SECTION.

- 6-41-406. Compliance required.
- 6-41-407. Accommodation for students with sensory processing difficulty.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

6-41-402. Definitions.

- As used in this subchapter:
- (1) “Compliance citation” means a citation issued by the Division of Elementary and Secondary Education that documents a school’s failure to comply with state education laws; and
 - (2) “Individualized education program” means the evaluation of the educational needs of a child with disabilities conducted pursuant to § 6-41-217.

History. Acts 1993, No. 483, § 2; 1995, No. 1296, § 31; 1999, No. 391, § 36; 2019, No. 910, § 1770.

Amendments. The 2019 amendment substituted “Division of Elementary and Secondary Education” for “Department of Education” in (1); and deleted (2) and redesignated (3) as (2).

6-41-403. Assessment of student progress.

(a) Each school district shall ensure that at least one (1) time per year a licensed teacher of the visually impaired, or other qualified person as determined by the Division of Elementary and Secondary Education, conducts an assessment of the educational progress of each visually impaired student enrolled in that school district identified as having or suspected of having a disability pursuant to the Children with Disabilities Act of 1973, § 6-41-201 et seq. The assessment shall:

(1) Address the student’s need for braille instruction, using procedures developed by the division, and specify the learning medium most appropriate for the student’s educational progress;

(2) Identify the student’s strengths and weaknesses in braille skills when that medium is used for instruction; and

(3) Identify appropriate and necessary related services and technologies for use in combination with braille instruction.

(b) The results of the assessment shall be used to develop the student’s individualized education program.

History. Acts 1993, No. 483, § 3; 2009, No. 376, § 51; 2013, No. 1138, § 73; 2019, No. 910, §§ 1771, 1772.

Amendments. The 2019 amendment substituted “Division of Elementary and

Secondary Education” for “Department of Education” in the introductory language of (a); and substituted “division” for “department” in (a)(1).

6-41-404. Braille instruction.

Each student who needs braille reading and writing instruction shall receive instruction from either a licensed teacher of the visually impaired or a person who is qualified in braille instruction as determined by the Division of Elementary and Secondary Education.

History. Acts 1993, No. 483, § 4; 2013, No. 1138, § 74; 2019, No. 910, § 1773.

Amendments. The 2019 amendment

substituted “Division of Elementary and Secondary Education” for “Department of Education”.

6-41-405. Electronic textbooks.

(a) The Division of Elementary and Secondary Education shall have the authority to require publishers of textbooks to furnish electronic media for the text portion of those textbooks required by visually impaired students.

(b) The electronic media shall be immediately capable of being electronically translated into braille or large print by computer or other electronic media.

(c) When braille code translation allows, publishers shall furnish electronic media for the nontextual portion of textbooks.

History. Acts 1993, No. 483, § 6; 2019, No. 910, § 1774.

Amendments. The 2019 amendment

substituted “Division of Elementary and Secondary Education” for “Department of Education” in (a).

6-41-406. Compliance required.

Failure of a school district to come into compliance with the provisions of this subchapter shall be grounds for a compliance citation from the Division of Elementary and Secondary Education.

History. Acts 1993, No. 483, § 7; 2019, No. 910, § 1775. substituted “Division of Elementary and Secondary Education” for “Department of Education”.
Amendments. The 2019 amendment

6-41-407. Accommodation for students with sensory processing difficulty.

When administering a state-mandated assessment or a state-mandated test, the Division of Elementary and Secondary Education and each school district shall allow a student that has been evaluated through appropriate testing, including a comprehensive eye examination by an optometrist or an ophthalmologist, and identified as having difficulty with sensory processing in reaction to oversensitivity to full spectrum light to use color overlays specific to the student’s oversensitivity that alter the contrast between the words and the page so that the student can visually comprehend the words on a page of a state-mandated assessment or a state-mandated test, if made available by the test developer.

History. Acts 2009, No. 1460, § 1; 2017, No. 745, § 31; 2019, No. 910, § 1776. substituted “Division of Elementary and Secondary Education” for “Department of Education”.
Amendments. The 2019 amendment

SUBCHAPTER 6 — DYSPLEXIA AND RELATED DISORDERS

SECTION.

- 6-41-602. Definitions.
- 6-41-603. Required screening and intervention.
- 6-41-605. Instructional approaches.
- 6-41-607. Dyslexia specialist.
- 6-41-608. Dyslexia professional awareness.

SECTION.

- 6-41-609. Dyslexia and related disorder education in teacher preparation programs.
- 6-41-610. Rules — Dyslexia resource guide.
- 6-41-611. Enforcement — Rules.

A.C.R.C. Notes. Acts 2019, No. 1089, § 1, provided: “Legislative findings. The General Assembly finds that:

- “(1) The Division of Youth Services is part of the organizational structure of the Department of Human Services and offers a number of programs for juveniles;
- “(2) Among the programs and services offered by the division is an education system, and one (1) of the goals of the education system of the division is to

ensure significant academic progress for each juvenile who is served by the division;

- “(3) The mission of the education system of the division is to provide, in a manner consistent with the administration of public education in this state and throughout the country, a system of high quality education programs that address the needs of juveniles who come in contact with the juvenile justice system;

“(4) To accomplish the mission of the division, the division:

“(A) Identifies and serves each juvenile with a disability in the division;

“(B) Improves the individual academic achievement of each juvenile in the education system of the division;

“(C) Provides an opportunity for progress toward state and local graduation requirements for each high-school-age juvenile in the education system of the division; and

“(D) Provides an opportunity for post-secondary education preparation for each juvenile who enters with or achieves graduate status while in the education system of the division;

“(5) The goal of the education system of the division is to coordinate with and not match the public school system in this state, and by offering courses in the core subject areas that meet state standards and graduation requirements, the division offers a consistent opportunity for all juveniles who are involved with the division to make adequate progress towards graduation; and

“(6) Reading proficiency is the foundation for achieving the goal of the education system of the division and any other education system in this state.”

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

6-41-602. Definitions.

As used in this subchapter:

(1) “Dyslexia” means a specific learning disability that is:

(A) Neurological in origin;

(B) Characterized by difficulties with accurate and fluent word recognition and poor spelling and decoding abilities that typically result from a deficit in the phonological component of language; and

(C) Often unexpected in relation to other cognitive abilities;

(2) “Dyslexia interventionist” means a school district or public school employee trained in a dyslexia program, such as a:

(A) Dyslexia therapist;

(B) Dyslexia specialist;

(C) Reading interventionist;

(D) Certified teacher; or

(E) Tutor or paraprofessional working under the supervision of a certified teacher;

(3) “Dyslexia program” means explicit, direct instruction that is:

(A) Systematic, sequential, and cumulative and follows a logical plan of presenting the alphabetic principle that targets the specific needs of the student without presuming prior skills or knowledge of the student;

(B) Systematic, multisensory, and research-based;

(C) Offered in a small group setting to teach students the components of reading instruction, including without limitation:

(i) Phonemic awareness to enable a student to detect, segment, blend, and manipulate sounds in spoken language;

(ii) Graphophonemic knowledge for teaching the letter-sound plan of English;

(iii) The structure of the English language that includes morphology, semantics, syntax, and pragmatics;

(iv) Linguistic instruction directed toward proficiency and fluency with the patterns of language so that words and sentences are carriers of meaning; and

(v) Strategies that students use for decoding, encoding, word recognition, fluency, and comprehension; and

(D)(i) Delivered with fidelity.

(ii) “Fidelity” means the intervention is done as the author of the program intended;

(4)(A) “Dyslexia specialist” means a professional at each education service cooperative or school district who has expertise and is working towards an endorsement or certification in providing training for:

(i) Phonological and phonemic awareness;

(ii) Sound and symbol relationships;

(iii) Alphabet knowledge;

(iv) Decoding skills;

(v) Rapid naming skills; and

(vi) Encoding skills.

(B) A dyslexia specialist shall be fluent in the Response to Intervention (RTI) process and provide training in administering screenings, analyzing and interpreting screening data, and determining appropriate interventions that are systematic, multisensory, and evidence-based;

(5) “Dyslexia therapist” means a professional who has completed training and obtained certification in dyslexia therapy from a dyslexia therapy training program defined by the Division of Elementary and Secondary Education; and

(6) “Dyslexia therapy” means an appropriate specialized reading instructional program specifically designed for use in a dyslexia program that is delivered by a dyslexia interventionist.

History. Acts 2013, No. 1294, § 1; substituted “Division of Elementary and Secondary Education” for “Department of Education” in (5).
2015, No. 1268, § 2; 2019, No. 910, § 1777.

Amendments. The 2019 amendment

6-41-603. Required screening and intervention.

(a)(1) A school district shall screen each student in kindergarten through grade two (K-2) and others required by the Division of

Elementary and Secondary Education rule using the Dynamic Indicators of Basic Early Literacy Skills (DIBELS) or an equivalent screener.

(2) The screening of students shall be performed with fidelity and include without limitation:

- (A) Phonological and phonemic awareness;
- (B) Sound symbol recognition;
- (C) Alphabet knowledge;
- (D) Decoding skills;
- (E) Rapid naming skills; and
- (F) Encoding skills.

(3)(A) If the screener under subdivision (a)(1) of this section shows that a student is at risk, or at some risk, then a level I dyslexia screener shall be administered.

(B) The level I dyslexia screening of a student shall be performed with fidelity and include the components listed under subdivision (a)(2) of this section.

(b) The division shall adopt rules to ensure that students will be screened using DIBELS or an equivalent screener:

- (1) In kindergarten through grade two (K-2);
- (2) When a student in kindergarten through grade two (K-2) transfers to a new school and has not been screened;

(3) When a student in grade three (3) or higher has difficulty, as noted by a classroom teacher, in:

- (A) Phonological and phonemic awareness;
- (B) Sound-symbol recognition;
- (C) Alphabet knowledge;
- (D) Decoding skills;
- (E) Rapid naming skills; and
- (F) Encoding skills; and

(4) When a student from another state enrolls for the first time in Arkansas in kindergarten through grade two (K-2) unless the student presents documentation that the student:

- (A) Had the screening or a similar screening; or
- (B) Is exempt from screening.

(c)(1) If the initial, level I, or level II dyslexia screening indicates that a student has characteristics of dyslexia, the Response to Intervention (RTI) process shall be used to address the needs of the student.

(2)(A)(i) If the level II dyslexia screening conducted by the school district indicates that a student exhibits characteristics of dyslexia, the student shall be provided intervention services.

(ii) The level II dyslexia screening shall be completed consistent with the Arkansas Dyslexia Resource Guide.

(B) If it is determined that the student has functional difficulties in the academic environment due to characteristics of dyslexia, the necessary accommodations or equipment for the student shall be provided under section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and Title II of the Americans with Disabilities Act, 42 U.S.C. §§ 12131—12165, as they existed on February 1, 2013, if qualified under the applicable federal law.

History. Acts 2013, No. 1294, § 1; substituted “Division of Elementary and Secondary Education” for “Department of Education” in (a)(1) and the introductory language of (b).
2015, No. 1268, § 2; 2017, No. 1039, § 1;
2019, No. 910, §§ 1778, 1779.

Amendments. The 2019 amendment

6-41-605. Instructional approaches.

(a) Dyslexia intervention for a student whose dyslexia level I or level II screening under § 6-41-603(c)(2) indicates the need for dyslexia intervention services may include the following instructional approaches:

(1) Explicit, direct instruction that is systematic, sequential, and cumulative and follows a logical plan of presenting the alphabetic principle that targets the specific needs of the student without presuming prior skills or knowledge of the student;

(2) Individualized instruction to meet the specific needs of the student in a small group setting that uses intensive, highly concentrated instruction methods and materials that maximize student engagement;

(3) Meaning-based instruction directed at purposeful reading and writing with an emphasis on comprehension and composition; and

(4) Multisensory instruction that incorporates the simultaneous use of two (2) or more sensory pathways during teacher presentations and student practice.

(b) Until there are a sufficient number of graduates from a dyslexia therapy program established at the university level in Arkansas or from a dyslexia therapy program established at the university level in another state that is approved by the Division of Elementary and Secondary Education, the division shall allow dyslexia therapy to be provided by individuals who have received training and certification from a program approved by the division.

History. Acts 2013, No. 1294, § 1; in (b), substituted “Division of Elementary and Secondary Education” for “Department of Education”, and substituted “division” for “department” twice.
2015, No. 1268, § 3; 2019, No. 910,
§ 1780.

Amendments. The 2019 amendment,

6-41-607. Dyslexia specialist.

(a) The Division of Elementary and Secondary Education shall employ at least one (1) dyslexia specialist with a minimum of three (3) years of field experience in screening, identifying, and treating dyslexia and related disorders to provide technical assistance for dyslexia and related disorders to school districts across the state.

(b) The dyslexia specialist shall:

(1) Be highly trained in dyslexia and related disorders, including best-practice interventions and treatment models for dyslexia;

(2) Be responsible for the accountability of screening results and the implementation of professional awareness required under § 6-41-608; and

(3) Serve as the primary source of information and support for school districts addressing the needs of students with dyslexia and related disorders.

(c) The division shall ensure that at least one (1) staff member at each education service cooperative is trained as a dyslexia specialist to provide necessary information and support to school districts.

(d) No later than the 2015-2016 academic year, a school district shall have individuals to serve as dyslexia interventionists.

History. Acts 2013, No. 1294, § 1; 2015, No. 1268, § 4; 2019, No. 910, §§ 1781, 1782.

Amendments. The 2019 amendment substituted “The Division of Elementary

and Secondary Education” for “No later than the 2015 fiscal year, the Department of Education” in (a); and substituted “division” for “department” in (c).

6-41-608. Dyslexia professional awareness.

(a) The Division of Elementary and Secondary Education shall ensure that each teacher receives professional awareness on:

- (1) The characteristics of dyslexia; and
- (2) The evidence-based interventions and accommodations for dyslexia.

(b) Professional awareness may be provided:

- (1) Online;
- (2) At an education service cooperative; or
- (3) At another venue approved by the division.

History. Acts 2013, No. 1294, § 1; 2015, No. 1268, § 5; 2019, No. 910, §§ 1783, 1784.

Amendments. The 2019 amendment substituted “The Division of Elementary

and Secondary Education” for “No later than the 2014-2015 school year, the Department of Education” in (a); and substituted “division” for “department” in (b)(3).

6-41-609. Dyslexia and related disorder education in teacher preparation programs.

The Division of Elementary and Secondary Education shall collaborate with the Division of Higher Education to ensure that all teacher education programs offered at state-supported institutions of higher education provide dyslexia professional awareness of the:

- (1) Characteristics of dyslexia; and
- (2) Evidence-based interventions and accommodations for dyslexia.

History. Acts 2013, No. 1294, § 1; 2015, No. 1268, § 6; 2019, No. 910, § 1785.

Amendments. The 2019 amendment, in the introductory language, substituted “The Division of Elementary and Second-

ary Education” for “No later than the 2015-2016 school year, the Department of Education”, and substituted “Division of Higher Education” for “Department of Higher Education”.

6-41-610. Rules — Dyslexia resource guide.

(a) The Division of Elementary and Secondary Education shall adopt rules to implement this subchapter.

(b)(1) The Division of Elementary and Secondary Education shall maintain a committee for the purpose of developing and updating the Arkansas Dyslexia Resource Guide.

(2)(A) The committee shall include one (1) representative who has experience working in the field of dyslexia intervention from the following organizations, appointed by the Commissioner of Elementary and Secondary Education:

(i) The Arkansas Association of Educational Administrators;

(ii) The Division of Learning Services of the Division of Elementary and Secondary Education;

(iii) The Division of Higher Education;

(iv) The Arkansas Education Association;

(v) The Arkansas School Boards Association;

(vi) The Arkansas School Psychology Association, with at least three (3) years of experience in testing for dyslexia; and

(vii) An education service cooperative administrator.

(B) Three (3) professionals who have worked in a public school who are knowledgeable in and have expertise in dyslexia screening and interventions.

History. Acts 2013, No. 1294, § 1; 2015, No. 1268, § 7; 2019, No. 910, § 1786.

Amendments. The 2019 amendment substituted “Division of Elementary and Secondary Education” for “Department of Education” in (a) and (b)(2)(A)(ii); substituted “Division of Elementary and Sec-

ondary Education” for “department” in (b)(1); substituted “Commissioner of Elementary and Secondary Education” for “Commissioner of Education” in the introductory language of (b)(2)(A); and substituted “Division of Higher Education” for “Department of Higher Education” in (b)(2)(A)(iii).

6-41-611. Enforcement — Rules.

(a)(1) A public school district that fails to comply with this subchapter:

(A) Shall be in violation of the Standards for Accreditation of Arkansas Public Schools and School Districts; and

(B) May be placed on probationary status.

(2) A public school district placed on probationary status under subdivision (a)(1) of this section shall report the reason for being placed on probationary status:

(A) On the website of the public school district; and

(B) By written notification to the parents of each student in the public school district.

(b) The Division of Elementary and Secondary Education:

(1) Shall enforce the requirements of this subchapter; and

(2) May promulgate rules to enforce and implement this subchapter.

History. Acts 2017, No. 1039, § 3; Secondary Education” for “Department of Education” in the introductory language of (b).
Amendments. The 2019 amendment substituted “Division of Elementary and

SUBCHAPTER 8 — BUILDING BETTER FUTURES HIGH SCHOOL PROGRAM

SECTION.
6-41-805. Responsibilities.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

6-41-805. Responsibilities.

- (a)(1) An institution of higher education that wishes to establish a Building Better Futures High School Program on campus shall seek recognition as a comprehensive transition and postsecondary program by the United States Department of Education.
- (2) Only approved institutions are eligible for funding for the Building Better Futures High School Program if funding is available.
- (b)(1) The Division of Higher Education shall provide information statewide, including to each high school in the state, on the options for postsecondary education for students with intellectual disabilities.
- (2) Each public high school in Arkansas shall provide the information distributed by the Division of Higher Education to the parent or guardian of a student with an intellectual or developmental disability enrolled in the public high school.
- (3) A public high school shall begin providing the information when transition services for a student are discussed at an annual review conference of the individualized education program committee meeting.
- (c)(1) Nothing in this subchapter relieves a school district from satisfying the requirements of a student’s individualized education plan.
- (2)(A) The lack of an available Building Better Futures High School Program located within fifty (50) miles of a student’s public high school or the failure of a Building Better Futures High School Program to admit a public school student is not a failure on the part

of the public high school to provide a free and appropriate public school education under 34 C.F.R. § 300.507.

(B) A student who is dismissed from a Building Better Futures High School Program has no recourse against the student’s public high school under 34 C.F.R. § 300.507.

(d) A public high school shall:

(1) Provide transportation for an admitted and eligible student to and from the closest approved Building Better Futures High School Program that is located no more than fifty (50) miles from the student’s public high school; and

(2) Continue to provide activities of daily living skills to eligible students at the public high school campus in addition to other requirements of the student’s individualized educational plan.

(e) Instructional and support staff for a student attending a Building Better Futures High School Program shall be provided by the institution providing the Building Better Futures High School Program while the student is on the campus of the institution.

(f)(1) With regard to the Building Better Futures High School Program, an institution of higher education shall not charge tuition and fees at a higher rate for secondary school students than for other students from the community.

(2) The tuition and fees shall be charged to the student’s public high school and be proportionate to the student’s participation in the Building Better Futures High School Program established by the student’s individualized education program.

(g) A variety of sources may be used to support the Building Better Futures High School Program, including the costs associated with tuition and support services.

History. Acts 2015, No. 931, § 1; 2017, No. 432, § 2; 2019, No. 910, § 1788.

Amendments. The 2019 amendment substituted “Division of Higher Education” for “Department of Higher Education” in (b)(1) and (b)(2).

SUBCHAPTER 9 — SUCCEED SCHOLARSHIP PROGRAM

- SECTION.
- 6-41-901. Definitions — Establishment — Intent.
 - 6-41-902. Student eligibility.
 - 6-41-903. Private school eligibility.
 - 6-41-904. Responsibilities of scholarship recipients.

- SECTION.
- 6-41-905. Scholarship payments — Funding.
 - 6-41-908. Succeed scholarship biennial study.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the

fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019".

6-41-901. Definitions — Establishment — Intent.

(a) As used in this section:

(1) "Foster care" means the care of a child by a group home or group facility on a twenty-four-hour-a-day basis away from the home of the child's parent or parents;

(2) "Foster parent" means the responsible official or officials of a group home or group facility that provides foster care to a child; and

(3) "Parent" means a student's parent or foster parent.

(b) The Succeed Scholarship Program is established and intended to provide a scholarship to a private school of choice for:

(1) Students in foster care; or

(2) Students with disabilities who have either an:

(A) Individualized education program in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq.; or

(B) Individualized service plan in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. § 1412(a)(10).

History. Acts 2015, No. 1178, § 1; redesignated part of (b)(2) as (b)(2)(A); 2017, No. 432, § 3; 2017, No. 894, § 1; added (b)(2)(B); and made stylistic changes. 2019, No. 548, § 1.

Amendments. The 2019 amendment

6-41-902. Student eligibility.

(a) A parent or legal guardian of a public school student may apply for a Succeed Scholarship to enroll his or her child in a private school if:

(1)(A) The student is currently enrolled in a public school and has attended public school for at least one (1) full academic year.

(B) Subdivision (a)(1)(A) of this section does not apply if:

(i) The student is a dependent of an active duty member of any branch of the United States Armed Forces; or

(ii) The superintendent of the student's resident school district waives the requirement;

(2) The student:

(A) Is in foster care or has been in the foster care system and achieved permanency through adoption, reunification, or permanent guardianship;

(B) Has an individualized education program in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq., or has been medically diagnosed by a licensed physician as a child with a disability under 20 U.S.C. § 1401(3)(A);

(C) Participated in the Succeed Scholarship Program during the prior school year and has not yet graduated from high school or attained twenty-one (21) years of age; or

(D) Has an individualized service plan in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. § 1412(a)(10);

(3) The student has been accepted for admission into a private school that is eligible to participate in the Succeed Scholarship Program;

(4) The parent has notified the student's current school district of the request for a scholarship at least sixty (60) days before the date of the first scholarship payment; and

(5)(A) For students in foster care, the Department of Human Services approves the student's placement in the private school.

(B) The department shall approve the student's placement in the private school if a determination is made that placement in the private school is in the best interest of the student.

(b) If a student is accepted to a private school upon the availability of space, a parent or legal guardian shall notify the student's school district at least sixty (60) days before the student enrolls in the private school and receives the first scholarship payment.

(c) The Division of Elementary and Secondary Education shall approve a maximum of twenty (20) scholarships under this subchapter per academic year for students in foster care.

(d) For purposes of continuity of educational choice, the Succeed Scholarship Program payments made under this subchapter shall remain in effect until a student who is participating in the Succeed Scholarship Program returns to a public school district or open-enrollment public charter school, graduates from high school, or attains twenty-one (21) years of age, whichever occurs first.

History. Acts 2015, No. 1178, § 1; 2017, No. 432, § 3; 2017, No. 637, § 1; 2017, No. 894, §§ 2, 3; 2019, No. 548, § 2; 2019, No. 910, § 1789; 2019, No. 1078, §§ 1, 2.

Amendments. The 2019 amendment by No. 548 added "or an individualized service plan in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. § 1412(a)(10)" in (a)(2)(B) [see now (a)(2)(D)].

The 2019 amendment by No. 910 substituted "Division of Elementary and Sec-

ondary Education" for "Department of Education" in (c).

The 2019 amendment by No. 1078 added "or has been in the foster care system and achieved permanency through adoption, reunification, or permanent guardianship" in (a)(2)(A); added "or has been medically diagnosed by a licensed physician as a child with a disability under 20 U.S.C. § 1401(3)(A)" in (a)(2)(B); and added (a)(2)(C), (a)(2)(D), and (d).

6-41-903. Private school eligibility.

(a)(1) A private school shall notify the Division of Elementary and Secondary Education of its intent to participate in the Succeed Scholarship Program.

(2) If the private school intends to enroll students with disabilities who have an individualized education program in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq., or

an individualized service plan in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. § 1412(a)(10), the notice shall specify the grade levels and services that the private school has available for students with severe disabilities who are participating in the Succeed Scholarship Program.

(b) The division shall approve a private school as eligible to participate in the Succeed Scholarship Program if the private school:

(1) Either:

(A) Meets the accreditation requirements set by the State Board of Education, the Arkansas Nonpublic School Accrediting Association, Inc., or its successor, or another accrediting association recognized by the state board as providing services to individuals with severe disabilities; or

(B)(i) Is an associate member of or has applied for accreditation by the Arkansas Nonpublic School Accrediting Association, Inc., or its successor, or another accrediting association recognized by the state board as providing services to individuals with severe disabilities.

(ii) A private school shall no longer be eligible if:

(a) The private school has not received accreditation within four (4) years of becoming eligible under subdivision (b)(1)(B)(i) of this section;

(b) The accrediting association determines that the private school is ineligible or unable to continue the accreditation process; or

(c) It becomes impossible for the private school to obtain accreditation within four (4) years.

(iii) A private school that becomes ineligible under subdivision (b)(1)(B)(ii) of this section shall regain eligibility when the private school receives accreditation.

(iv) A private school that is not fully accredited shall report annually to the state board its progress towards accreditation;

(2)(A) Demonstrates fiscal soundness by having been in operation for one (1) school year or providing the division with a statement by a certified public accountant confirming that the private school is insured and the private school has sufficient capital or credit to operate in the upcoming school year.

(B) In lieu of a statement, a surety bond or letter of credit for the amount equal to the scholarship funds for any quarter may be filed with the division;

(3) Complies with the antidiscrimination provisions of 42 U.S.C. § 2000d;

(4) Meets state and local health and safety requirements;

(5) Is academically accountable to the parent or legal guardian for meeting the educational needs of the student;

(6) Employs or contracts with teachers who hold baccalaureate or higher degrees;

(7) Complies with all state laws and rules governing private schools; and

(8) Adheres to the tenets of its published disciplinary procedures before an expulsion of a student receiving a scholarship.

(c) The division shall maintain a list of private schools eligible to participate in the Succeed Scholarship Program and make the list available on the division's website.

(d)(1)(A) An eligible private school shall administer annually or make provisions for a student participating in the Succeed Scholarship Program to take a nationally recognized norm-referenced test as established by the state board.

(B) A list, in a deidentified format, of students who have taken a nationally recognized norm-referenced test under subdivision (d)(1)(A) of this section and the students' test results shall be forwarded annually to the state board or its designee.

(2)(A) A student with an individual education plan or an individualized service plan that provides for an exemption to standardized testing is not required to take the test required under subdivision (d)(1)(A) of this section.

(B) A list, in a deidentified format, of students with an individual education plan that provides for an exemption to standardized testing under subdivision (d)(2)(A) of this section shall be provided annually to the state board or its designee.

(3)(A) An eligible private school shall annually prepare a portfolio that provides information on a student's progress to the student's parent or guardian if a student is exempt from standardized testing as permitted under subdivision (d)(2)(A) of this section.

(B) A list, in a deidentified format, of students with portfolios under subdivision (d)(3)(A) of this section and a general summary of the information provided in the portfolios shall be provided annually to the state board or its designee.

(4)(A) An eligible private school under this section shall submit annually to the division or its designee, in a deidentified format required by the Bureau of Legislative Research in consultation with the division, a:

(i) Report that lists all students who have received a Succeed Scholarship under this subchapter who have been dismissed from the Succeed Scholarship Program by the private school;

(ii) Report that lists all students who have received a Succeed Scholarship under this subchapter who have voluntarily returned to a traditional public school;

(iii) List of foster children who have:

(a) Entered the Succeed Scholarship Program;

(b) Been dismissed from the Succeed Scholarship Program; or

(c) Been removed from the Succeed Scholarship Program by the Department of Human Services;

(iv) Report of administrative costs required to implement the Succeed Scholarship Program; and

(v) Report regarding the demographic data of students who have applied for the Succeed Scholarship under this subchapter and students who were awarded the Succeed Scholarship under this subchapter, including without limitation the geographic location in

the state of the students who are participating in the Succeed Scholarship Program.

(B) The division shall make information received from eligible private schools under subdivision (d)(4)(A) of this section available to the House Committee on Education and the Senate Committee on Education in a deidentified format specified by the bureau in consultation with the division.

(5) All information under this subsection shall be included in the Succeed Scholarship Program biennial study under § 6-41-908.

(e)(1) The division shall prepare and submit annually or obtain from its designated administrator for the Succeed Scholarship Program under this subchapter a report, in a deidentified format required by the bureau in consultation with the division, that indicates the:

(A) List of students who have received a Succeed Scholarship under this subchapter;

(B) Eligible private school attended by each student who has received a Succeed Scholarship under this subchapter; and

(C) Amount of each Succeed Scholarship received by a student under this subchapter.

(2) In addition to the report required under subdivision (e)(1) of this section, the division shall make information received from its designated administrator regarding the Succeed Scholarship Program under this subchapter available to the House Committee on Education and the Senate Committee on Education through the bureau.

History. Acts 2015, No. 1178, § 1; 2017, No. 327, § 1; 2017, No. 432, § 3; 2017, No. 894, § 4; 2019, No. 315, § 324; 2019, No. 548, §§ 3, 4; 2019, No. 827, §§ 3-5; 2019, No. 910, §§ 1790-1793.

Amendments. The 2019 amendment by No. 315 substituted “rules” for “regulations” in (b)(7).

The 2019 amendment by No. 548 inserted “or an individualized service plan in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. § 1412(a)(10)” in (a)(2); and inserted “or an individualized service plan” in (d)(2) [now (d)(2)(A)].

The 2019 amendment by No. 827 added (b)(1)(B)(iv); redesignated (d)(1) as (d)(1)(A); substituted “Succeed Scholarship Program” for “scholarship program” in (d)(1)(A); added (d)(1)(B); redesignated (d)(2) as (d)(2)(A); added (d)(2)(B); redesignated (d)(3) as (d)(3)(A); added (d)(3)(B), (d)(4), and (e); and updated internal references.

The 2019 amendment by No. 910 substituted “Division of Elementary and Secondary Education” for “Department of Education” in (a)(1); and substituted “division” for “department” throughout (b) and (c).

6-41-904. Responsibilities of scholarship recipients.

(a) The parent or legal guardian of a Succeed Scholarship Program recipient shall:

(1) Select the private school from the list of private schools eligible to participate in the program that is maintained by the Division of Elementary and Secondary Education;

(2) Apply for the scholarship at least sixty (60) days before the date of the first scholarship payment and notify the superintendent of the

student's resident school district within five (5) business days of submitting the application;

(3) Fully comply with the parental involvement requirements of the private school unless excused by the school for illness or other good cause;

(4) Sign a waiver that releases the State of Arkansas from any legal obligation to provide services or education to the student participating in the program except for funding provided for the program under the rules established by the State Board of Education;

(5) Sign a waiver that releases the student's resident school district from any legal obligation to provide services or education to the student participating in the program while the student is not enrolled in the student's resident school district as provided under the rules established by the state board; and

(6) Notify the state board or the state board's designee if the student ceases to be enrolled in or regularly attend the private school for any reason.

(b) A student participating in the program shall:

(1) Attend the private school throughout the school year unless excused by the school for illness or other good cause; and

(2) Comply fully with the code of conduct for the private school.

(c) The state board may terminate the scholarship of a student if the student or the student's parent or guardian materially fails to comply with the responsibilities under this section.

History. Acts 2015, No. 1178, § 1; substituted "Division of Elementary and Secondary Education" for "Department of Education" in (a)(1).
2017, No. 432, § 3; 2019, No. 910, § 1794.

Amendments. The 2019 amendment

6-41-905. Scholarship payments — Funding.

(a) The maximum scholarship available under the Succeed Scholarship Program is the foundation funding amount for the current school year under § 6-20-2305.

(b) The amount of the scholarship shall be the amount calculated under subsection (a) of this section or the amount of tuition and fees for the private school, whichever is less.

(c) Scholarship payments shall be disbursed in equal amounts on a monthly basis by the Division of Elementary and Secondary Education or another state agency, person, firm, or corporation designated by the division to administer and disburse funds.

(d) Beginning on July 1, 2015, the division shall prepare a budget, including cost estimates and projections so that a separate appropriation can be made for the program for the 2016-2017 school year.

(e) The program shall be funded separately from the Public School Fund and other funds or appropriations designated for public schools.

(f) The program shall not be funded with county, city, or school district tax revenues.

History. Acts 2015, No. 1178, § 1; Secondary Education” for “Department of 2017, No. 432, § 3; 2019, No. 910, § 1795. Education” in (c); and substituted “divi-

Amendments. The 2019 amendment sion” for “department” in (c) and (d). substituted “Division of Elementary and

6-41-908. Succeed scholarship biennial study.

(a) The House Committee on Education and the Senate Committee on Education shall conduct biennially a study of the Succeed Scholarship Program under this subchapter to determine the following information without limitation:

(1) The number of students currently participating in the Succeed Scholarship Program;

(2) The number of students currently participating in the Succeed Scholarship Program who attended a traditional public school before receiving a Succeed Scholarship;

(3) The number of students currently participating in the Succeed Scholarship Program who did not attend a traditional public school before enrolling in a private school upon receipt of a Succeed Scholarship;

(4) The number of students who have been dismissed from the Succeed Scholarship Program by a private school that is receiving funds through the Succeed Scholarship Program;

(5) The number of students who attended a private school with a Succeed Scholarship and voluntarily returned to a traditional public school;

(6) The number of children in foster care who have entered the Succeed Scholarship Program, have been dismissed from the Succeed Scholarship Program, or have been removed from the Succeed Scholarship Program by the Department of Human Services;

(7) The number of private schools receiving Succeed Scholarship funds that are currently accredited by the Arkansas Nonpublic School Accrediting Association, Inc., its successor, or another accrediting association recognized by the State Board of Education;

(8) The number of private schools receiving Succeed Scholarship funds that are currently unaccredited but have applied for accreditation to the Arkansas Nonpublic Accrediting Association, Inc., its successor, or another accrediting association recognized by the state board, and where those schools are in the accreditation process;

(9) The number of students who are enrolled in the Succeed Scholarship Program and who have taken a nationally recognized norm-referenced test and received the test results;

(10) The number of students with individualized education programs under the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq., who are enrolled in the Succeed Scholarship Program and have been exempted from standardized testing requirements under § 6-41-903; and

(11) The number of student portfolios that have been developed for exempt students and a general summary of the information contained in the student portfolios as required under § 6-41-903.

(b) In addition to the above information, the House Committee on Education and the Senate Committee on Education shall:

- (1) Review norm-referenced test results and student portfolios; and
- (2) Provide comparative data regarding student performance in the Succeed Scholarship Program.

(c) The House Committee on Education and the Senate Committee on Education shall compile a final report that includes the findings under subsections (a) and (b) of this section on a biennial basis, with the first report due on March 1, 2020.

History. Acts 2019, No. 827, § 2.
A.C.R.C. Notes. Acts 2019, No. 827, § 1, provided: “Legislative intent. The General Assembly finds that:
“(1) Efficient use of the state’s tax dollars is a paramount priority;
“(2) Policymakers should have updated information in order to make well-informed policy decisions; and

“(3) To ensure efficient use of the state’s tax dollars, there should exist documentation regarding how public funds are being spent by private institutions that receive public funds.”

CHAPTER 42
GIFTED AND TALENTED CHILDREN

SUBCHAPTER.

- 1. GENERAL PROVISIONS.
- 3. ARKANSAS SCHOOL FOR MATHEMATICS, SCIENCES, AND THE ARTS.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

- 6-42-102. Rules — Reports.
- 6-42-103. Office for the Education of Gifted and Talented Children.
- 6-42-104. Advisory Council for the Education of Gifted and Talented Children.

SECTION.

- 6-42-106. Gifted and talented programs — Funding and eligibility.
- 6-42-108. Summer residential and day programs.
- 6-42-109. Reports by school districts.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

6-42-102. Rules — Reports.

The State Board of Education shall have the authority to promulgate such rules and require such reports as it deems advisable.

History. Acts 1979, No. 106, § 5; A.S.A. 1947, § 80-5205; Acts 2019, No. 315, § 325.

Amendments. The 2019 amendment deleted “and regulations” following “rules” in the section heading and in the section.

6-42-103. Office for the Education of Gifted and Talented Children.

To implement the policy stated in § 6-42-101, there is established in the Division of Learning Services of the Division of Elementary and Secondary Education an Office for the Education of Gifted and Talented Children to be headed by an administrator who shall be qualified by education, training, and experience to direct the state program for gifted and talented children.

History. Acts 1979, No. 106, § 1; A.S.A. 1947, § 80-5201; Acts 2019, No. 910, § 1796.

substituted “Division of Elementary and Secondary Education” for “Department of Education”.

Amendments. The 2019 amendment

6-42-104. Advisory Council for the Education of Gifted and Talented Children.

(a)(1) There is established an Advisory Council for the Education of Gifted and Talented Children, which shall advise and consult with the Commissioner of Elementary and Secondary Education and the Administrator of the Office for the Education of Gifted and Talented Children and which shall engage in other activities as set forth in this section.

(2) The council shall be advisory only and shall have no administrative responsibility.

(b)(1) The council shall consist of nine (9) members who are not officers or employees of state agencies and no more than four (4) of whom may be officers or employees of school districts.

(2) The council shall be composed of persons interested in the education of gifted and talented children.

(c)(1) The Governor, subject to confirmation by the Senate, shall appoint the members of the council for terms of three (3) years.

(2) A member may be eligible for reappointment for one (1) additional term.

(d) Vacancies that leave unexpired terms shall be filled in the regular manner for the unexpired period of time, and vacancies as a result of expiration of terms shall be filled in the regular manner for three-year periods.

(e)(1) The council annually shall elect its own chair and vice chair.

(2) The administrator shall act as secretary to the council.

(f) The Division of Elementary and Secondary Education shall, within available personnel, facilities, and appropriations, furnish meeting facilities and staff services for the council.

(g) The members of the council may receive expense reimbursement in accordance with § 25-16-901 et seq.

(h) The council shall:

(1) Have an opportunity to comment on rules proposed for issuance pursuant to this subchapter;

(2) Consider any problems presented to it by the commissioner or the administrator and give advice thereon;

(3) Review state plans prepared by the Office for the Education of Gifted and Talented Children before their submission to duly constituted authorities;

(4)(A) Make an annual report to the Governor, the General Assembly, the State Board of Education, and the commissioner, which shall be made available to the news media so that the general public may be informed regarding educational programs for gifted and talented children.

(B)(i) Funds for the publication of the annual report of the council shall be made available by the division from its regular appropriations.

(ii) Available federal and state funds may be used for this purpose;

(5) Participate with the staff of the division in determining the need for educational programs to serve gifted and talented children to be operated by the division, in selecting the sites for educational programs, in establishing student selection criteria for participation in the programs, in selecting students to participate in the programs, and in selecting faculty and staff for the programs; and

(6)(A) Select on an annual basis not more than three (3) educational programs for gifted and talented students operated by school districts for recognition as outstanding programs.

(B) The programs so recognized shall be eligible to receive an award of not more than three thousand dollars (\$3,000) from funds appropriated to the division for the purpose of making awards to outstanding educational programs.

History. Acts 1979, No. 106, § 3; 1983 (1st Ex. Sess.), No. 55, § 1; 1983 (1st Ex. Sess.), No. 56, § 1; A.S.A. 1947, § 80-5203; Acts 1997, No. 250, § 19; 2019, No. 315, § 326; 2019, No. 910, §§ 1797-1800.

Amendments. The 2019 amendment by No. 315 deleted “and regulations” following “rules” in (h)(1).

The 2019 amendment by No. 910 substituted “Commissioner of Elementary and Secondary Education” for “Commissioner of Education” in (a)(1); substituted “Division of Elementary and Secondary Education” for “Department of Education” in (f); and substituted “division” for “department” in (h)(5) twice and in (h)(6)(B).

6-42-106. Gifted and talented programs — Funding and eligibility.

(a)(1) Appropriations made by the General Assembly to the Public School Fund for the purposes of this subchapter shall be disbursed by

the Division of Elementary and Secondary Education in accordance with rules promulgated by the State Board of Education.

(2) Such funds may be used to provide financial assistance to school districts operating programs for gifted and talented children and to fund supplemental programs for gifted and talented children operated by the division directly or through contract with other public or private agencies.

(3) All school districts are eligible to make application for payments under this subchapter, and two (2) or more districts may submit an application for a cooperative program.

(b)(1) Specific eligibility requirements for gifted and talented programs in each school district shall be determined by the school district board of directors.

(2) In order to qualify for such financial assistance as may be available from the state, school district eligibility requirements must be consistent with the guidelines for gifted and talented programs adopted by the state board with the advice of the Advisory Council for the Education of Gifted and Talented Children.

History. Acts 1979, No. 106, § 2; A.S.A. 1947, § 80-5202; Acts 2019, No. 315, § 327; 2019, No. 910, § 1801.

Amendments. The 2019 amendment by No. 315 substituted “rules” for “regulations” in (a)(1).

The 2019 amendment by No. 910 substituted “Division of Elementary and Secondary Education” for “Department of Education” in (a)(1); and substituted “division” for “department” in (a)(2).

6-42-108. Summer residential and day programs.

(a) The Division of Elementary and Secondary Education is authorized to establish annual summer residential and day programs to provide enriched educational offerings for junior high and high school students who have demonstrated exceptional abilities in a specific subject area.

(b) Each program shall offer instruction in subject areas to be designated annually by the division from the subject areas of science, mathematics, computer science, social studies, arts and music, literature and communication, and foreign languages.

(c) The summer educational programs established pursuant to the authority of this section shall be operated by the division directly or by contract with other public or private agencies and shall be funded from the appropriation to the division for the operation of programs for the education of gifted and talented students.

History. Acts 1983 (1st Ex. Sess.), No. 3, §§ 1, 2; A.S.A. 1947, §§ 80-5206, 80-5207; Acts 1989, No. 693, § 1; 2019, No. 910, § 1802.

Amendments. The 2019 amendment

substituted “Division of Elementary and Secondary Education” for “Department of Education” in (a); and substituted “division” for “department” in (b) and twice in (c).

6-42-109. Reports by school districts.

Each school district shall report annually to the Division of Elementary and Secondary Education, at a prescribed due date, the extent to which it is providing educational opportunities specifically designed to meet the educational needs of gifted and talented children.

History. Acts 1979, No. 106, § 5; A.S.A. substituted "Division of Elementary and Secondary Education" for "Department of Education".
1947, § 80-5205; Acts 2019, No. 910, § 1803.

Amendments. The 2019 amendment

SUBCHAPTER 3 — ARKANSAS SCHOOL FOR MATHEMATICS, SCIENCES, AND THE ARTS**SECTION.**

6-42-303. Board of Visitors.

6-42-306. Division of Elementary and Secondary Education rules.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019".

6-42-303. Board of Visitors.

(a)(1) There is established a Board of Visitors for the Arkansas School for Mathematics, Sciences, and the Arts.

(2) The persons serving on December 31, 2003, as members of the Board of Trustees of the Arkansas School for Mathematics and Sciences shall be members of the Board of Visitors for the Arkansas School for Mathematics, Sciences, and the Arts and shall continue to serve for terms equal to the unexpired portions of their terms as members of the Board of Trustees of the Arkansas School for Mathematics and Sciences.

(3) The Board of Visitors for the Arkansas School for Mathematics, Sciences, and the Arts shall consist of seven (7) members appointed by the Governor for seven-year terms.

(4) As initial terms expire and when vacancies occur, the Governor shall appoint a person to fill each vacancy for the remaining portion of the unexpired term.

(5) Appointments shall be for terms of seven (7) years or for the remaining portion of an unexpired term.

(b)(1) In addition to possessing the qualifications of an elector, each member of the Board of Visitors for the Arkansas School for Mathematics, Sciences, and the Arts appointed by the Governor shall reside in the State of Arkansas.

(2) One (1) member shall be appointed from each congressional district, and the remaining members shall be appointed from the state at large.

(3)(A) In addition to appointed members of the Board of Visitors for the Arkansas School for Mathematics, Sciences, and the Arts, six (6) ex officio nonvoting members shall also serve on the Board of Visitors for the Arkansas School for Mathematics, Sciences, and the Arts as follows:

- (i) The Commissioner of Elementary and Secondary Education;
- (ii) The Director of the Division of Higher Education;
- (iii) The Director of the Arkansas Economic Development Commission or his or her designee;
- (iv) The Director of the Division of Arkansas Heritage;
- (v) The president of the parent association of the school; and
- (vi) The president of the student government of the school.

(B) The terms of office of an ex officio nonvoting member shall continue so long as he or she occupies the position or office.

(c)(1)(A) The Board of Visitors for the Arkansas School for Mathematics, Sciences, and the Arts shall meet at least quarterly as the Board of Visitors for the Arkansas School for Mathematics, Sciences, and the Arts determines and shall elect from its voting members a chair, a vice chair, and a secretary.

(B) With prior notice to all members, special meetings may be called as needed by either the chair or any three (3) of the voting members of the Board of Visitors for the Arkansas School for Mathematics, Sciences, and the Arts.

(2) Regular minutes of its meetings shall be preserved.

History. Acts 2003, No. 1305, § 3; 2015 (1st Ex. Sess.), No. 7, § 69; 2015 (1st Ex. Sess.), No. 8, § 69; 2017, No. 718, § 2; 2019, No. 910, § 1804.

Amendments. The 2019 amendment substituted “Commissioner of Elementary and Secondary Education” for “Commissioner of Education” in (b)(3)(A)(i); substituted “Division of Higher Education” for

“Department of Higher Education” in (b)(3)(A)(ii); substituted “Director of the Arkansas Economic Development Commission” for “Executive Director of the Arkansas Economic Development Commission” in (b)(3)(A)(iii); and substituted “Division of Arkansas Heritage” for “Department of Arkansas Heritage” in (b)(3)(A)(iv).

6-42-306. Division of Elementary and Secondary Education rules.

All Division of Elementary and Secondary Education rules shall apply to the Arkansas School for Mathematics, Sciences, and the Arts unless the division determines otherwise or unless the rules conflict with governance of the school by the Board of Trustees of the University of Arkansas and the purposes and intent of this subchapter.

History. Acts 2003, No. 1305, § 6; 2019, No. 910, § 1805. Secondary Education” for “Department of Education” in the section heading and in the text, and substituted “division” for department”.

Amendments. The 2019 amendment substituted “Division of Elementary and

CHAPTER 43

ARKANSAS SCHOOL FOR THE BLIND AND ARKANSAS SCHOOL FOR THE DEAF

SUBCHAPTER.

- 1. GENERAL PROVISIONS.
- 2. ARKANSAS SCHOOL FOR THE BLIND.
- 3. ARKANSAS SCHOOL FOR THE DEAF.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

- 6-43-102. Powers and duties of board.
- 6-43-103. Superintendents.
- 6-43-104. Employees generally.

SECTION.

- 6-43-106. Deaf and blind children — Out-of-state facilities.
- 6-43-108. Removal of pupils.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

6-43-102. Powers and duties of board.

(a) The Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the Deaf created in § 6-43-101 is charged with the management and control of the Arkansas School for the Blind and the Arkansas School for the Deaf.

(b) The board shall have the power, authority, and duties formerly conferred by law on the board it succeeds including those set forth below:

(1) The board shall exercise such powers of supervision and control as are not specifically reserved to the superintendent; and

(2) The board, in consultation with the Secretary of the Department of Education, shall fix the salaries of officers and employees not already fixed by law.

History. Acts 1927, No. 37, § 12; Pope's Dig., § 12798; Acts 1943, No. 1, § 3; A.S.A. 1947, §§ 7-202, 7-208; Acts 2019, No. 910, § 1806.

Amendments. The 2019 amendment inserted "in consultation with the Secretary of the Department of Education" in (b)(2).

6-43-103. Superintendents.

(a) The immediate conduct and management of the Arkansas School for the Blind and the Arkansas School for the Deaf shall be entrusted to superintendents.

(b) The Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the Deaf, in consultation with the Secretary of the Department of Education, shall select the superintendents of the institutions committed to its care.

(c)(1) Each of the superintendents shall be required to give bond in a sum fixed by the board, payable to the State of Arkansas, for the faithful discharge of his or her duties and the proper accounting for all moneys and property coming into his or her possession as such officer.

(2) The bonds shall be made by any surety company authorized to do business in Arkansas, approved by the Governor, filed in the office of the Secretary of State, and paid for by the state out of current expenses appropriated by the respective institutions.

(d) The superintendents of the schools shall be required to give their entire time to the management and operation of their respective institutions and shall be selected because of their previous training and fitness to care for the schools entrusted to their care.

History. Acts 1927, No. 37, §§ 12-14; Pope's Dig., §§ 12798-12800; A.S.A. 1947, §§ 7-208 — 7-210; Acts 2019, No. 910, § 1807.

Amendments. The 2019 amendment inserted "in consultation with the Secretary of the Department of Education" in (b).

6-43-104. Employees generally.

(a) The superintendents shall have power to select and engage all employees of the schools at salaries fixed by the Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the Deaf in consultation with the Secretary of the Department of Education, reporting the same for approval to the board at the next regular meeting thereof.

(b) The superintendents shall have the power to remove employees of the respective schools and may remove any employee at any time in

their discretion for cause, but, in case of removal, the superintendent shall report the removal and the ground therefor to the board and the secretary.

History. Acts 1927, No. 37, § 14; Pope's Dig., § 12800; Acts 1963, No. 514, § 1; A.S.A. 1947, § 7-210; Acts 1995, No. 1192, § 1; 2019, No. 910, § 1808.

inserted "in consultation with the Secretary of the Department of Education" in (a); and, in (b), deleted "sole" preceding "power" and added "and the Secretary of the Department of Education".

Amendments. The 2019 amendment

6-43-106. Deaf and blind children — Out-of-state facilities.

(a) The Arkansas School for the Blind is authorized to expend available funds for the purpose of sending children under the age of twenty-one (21), who are deaf as well as blind and for which there are no facilities for education in this state, to any school, institution, or other place outside the State of Arkansas providing a qualified program of education for such children.

(b) The funds may be spent for room, board, tuition, transportation, and other items which are necessarily relevant to the education of such children.

(c) In interpreting and carrying out the provisions of this section, the words "deaf-blind children", wherever used, will be construed to include any child whose combination of disabilities of deafness and blindness would prevent him or her from profiting satisfactorily from educational programs now provided for the blind child or the deaf child by the State of Arkansas.

(d) The school is authorized to determine if such children should be sent to such out-of-state facilities.

(e) The school is authorized to promulgate such rules as it deems necessary and proper for carrying out the purposes and intent of this section.

History. Acts 1959, No. 249, § 1; A.S.A. 1947, § 80-2401.1; Acts 2019, No. 315, § 328.

Amendments. The 2019 amendment deleted "and regulations" following "rules" in (e).

6-43-108. Removal of pupils.

(a)(1) Whenever it shall be deemed necessary by the proper officers of either of the schools, in accordance with the bylaws and rules thereof, to have pupils removed, either temporarily on account of ill health or the vacation of the school, or permanently on account of having completed their course of instruction or having been found disqualified, from any cause, for a longer continuance in the school, the parents, or guardians, if they have any, of such pupils shall promptly remove them upon the requirement of the officers.

(2) In case they shall not be thus provided for, it shall be the duty of the superintendent or principal of such institution to cause them to be so removed to their houses or delivered to the proper officers of the counties in which they may reside.

- (b)(1) The expense of removal shall be refunded to each institution in the same manner as is provided in § 6-43-109.
- (2) The county sheriff may collect it in the same manner as is provided in § 6-43-109.

History. Acts 1875 (Adj. Sess.), No. 65, § 6, p. 134; C. & M. Dig., §§ 9374, 9486; Pope’s Dig., §§ 12839, 12889; A.S.A. 1947, § 80-2424; Acts 2019, No. 315, § 329.

Amendments. The 2019 amendment substituted “rules” for “regulations” in (a)(1).

SUBCHAPTER 2 — ARKANSAS SCHOOL FOR THE BLIND

SECTION.
6-43-203. Rules.

6-43-203. Rules.

The Board of Trustees of the Arkansas School for the Blind shall make all rules necessary for the government of the institution not otherwise provided by law, and it shall incorporate the rules in the next report it makes after the promulgation of the rules to the General Assembly.

History. Acts 1868, No. 50, § 7, p. 154; C. & M. Dig., § 9455; Pope’s Dig., § 12858; A.S.A. 1947, § 80-2208; Acts 2019, No. 315, § 330.

Amendments. The 2019 amendment substituted “Rules” for “Regulations” in the section heading, and “rules” for “regulations” throughout the section.

SUBCHAPTER 3 — ARKANSAS SCHOOL FOR THE DEAF

SECTION.
6-43-305. Teachers generally.
6-43-308. Custodian of funds — Payment of bills, warrants, etc.

SECTION.
6-43-317. Boarding and lodging.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

6-43-305. Teachers generally.

(a) The Arkansas School for the Deaf is hereby authorized to pay employees hired in the position of teacher for the sensory impaired or senior audiologist for the yearly school term the maximum annual salary rate established for each position.

(b) Teachers for the sensory impaired shall be eligible for an additional step increase after being certified in teaching the vision or hearing impaired by the Division of Elementary and Secondary Education.

History. Acts 1911, No. 442, § 4; C. & M. Dig., § 9365; Pope's Dig., § 12830; Acts 1981, No. 356, §§ 7, 9; A.S.A. 1947, §§ 80-2314, 80-2315.1, 80-2315.2; Acts 1989 (1st Ex. Sess.), No. 248, § 12; 1993, No. 294, § 16; 1997, No. 1086, § 15; 2019, No. 910, § 1809.

Amendments. The 2019 amendment substituted "Division of Elementary and Secondary Education" for "Department of Education" in (b).

6-43-308. Custodian of funds — Payment of bills, warrants, etc.

(a) The Treasurer of State, in consultation with the Secretary of the Department of Education, shall have the custody of all moneys, notes, securities, and other obligations belonging to the Arkansas School for the Deaf and shall be responsible for them under his or her bond and oath as the Treasurer of State.

(b) The Treasurer of State, in consultation with the secretary, shall pay all the expenses of the school out of the funds appropriated for the use of the school, upon warrants drawn by the Auditor of State in favor of the Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the Deaf, who shall issue his or her warrants upon orders signed by the Chair of the Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the Deaf and at least two (2) members of the board of trustees, except as herein otherwise provided.

History. Acts 1868, No. 36, § 6; C. & M. Dig., § 9346; Pope's Dig., § 12811; A.S.A. 1947, § 80-2306; Acts 2019, No. 910, § 1810.

inserted "in consultation with the Secretary of the Department of Education" in (a); and inserted "in consultation with the secretary" in (b).

Amendments. The 2019 amendment

6-43-317. Boarding and lodging.

(a)(1) It shall be the duty of the Superintendent of the Arkansas School for the Deaf to furnish, or cause to be furnished, suitable and proper boarding and lodging, as well as suitable instruction, for all hearing-impaired persons received as beneficiaries.

(2) He or she shall receive into the school other hearing-impaired persons according to such rules as the Board of Trustees of the Arkansas School for the Deaf may prescribe.

- (b)(1) The Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the Deaf may require the superintendent or other school official to reside at the institution.
- (2) The Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the Deaf may provide other benefits to the superintendent out of the operation funds of the respective school.
- (c) No person shall lodge or board in the school who is not a pupil thereof, except its officers and their families.

History. Acts 1868, No. 36, §§ 5, 17, p. 115; C. & M. Dig., §§ 9345, 9354; Pope’s Dig., §§ 12810, 12819; A.S.A. 1947, §§ 80-2308, 80-2411; Acts 2001, No. 1143, § 1; 2019, No. 315, § 331.

Amendments. The 2019 amendment substituted “rules” for “regulations” in (a)(2).

CHAPTER 45

ARKANSAS BETTER CHANCE PROGRAM ACT

SECTION.	SECTION.
6-45-103. Definitions.	ability and program criteria.
6-45-104. Construction.	
6-45-105. Establishment of Arkansas Better Chance Program.	6-45-108. Criteria for determining need.
6-45-106. Application process — Allocation of funding.	6-45-109. Certification by Division of Child Care and Early Childhood Education.
6-45-107. Publication of funding avail-	6-45-110. Assessment.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

6-45-103. Definitions.

As used in this chapter:

- (1) “Appropriate early childhood program” means a developmentally appropriate program for young children, birth through five (5) years of age, approved by the Division of Elementary and Secondary Education as complying with the regulatory guidelines of the early childhood state accreditation by the Department of Human Services and Arkansas

Better Chance Core Quality Approval Standards of the division to be issued by the division pursuant to this chapter;

(2) “Arkansas Better Chance for School Success” means a developmentally appropriate early care and education program for children three (3) and four (4) years of age created under § 6-45-105(a)(1)(B);

(3) “Arkansas Early Childhood Commission” or “commission” means a twenty-five-member advisory body appointed by the Governor to perform certain duties and responsibilities relating to the development, expansion, and coordination of early childhood programs, including, but not limited to, serving as the advisory body to the division on early childhood program issues;

(4) “Arkansas HIPPY Advisory Board” means a citizen board appointed through the Home Instruction for Parents of Preschool Youngsters (HIPPY) regional technical assistance and training center to develop public awareness, to promote program expansion, to encourage local development of the Home Instruction for Parents of Preschool Youngsters, and to provide consultation and guidance to the center; and

(5) [Repealed.]

History. Acts 1991, No. 212, § 1; 1991, No. 216, § 1; 1997, No. 1132, § 36; 1999, No. 1222, § 3; 2003, No. 1105, § 1; 2003, No. 1332, § 2; 2009, No. 28, § 1; 2013, No. 403, § 1; 2019, No. 910, §§ 1811-1813.

Amendments. The 2019 amendment substituted “Division of Elementary and Secondary Education” for “Department of Education” three times in (1) and in (3); and repealed (5).

6-45-104. Construction.

(a)(1) Except as required under subdivision (a)(2) of this section, this chapter shall not require any school district to participate.

(2) A local school is required to work with the Division of Elementary and Secondary Education and its local community to establish, promote, and assist in the development of a program under the Arkansas Better Chance for School Success Program to serve all children in the school as provided in § 6-45-108, if the school is located in a school district classified as in need of Level 5 — Intensive support.

(b) Furthermore, nothing in this chapter shall require parents or legal guardians to enroll their children under five (5) years of age in any program established pursuant to this chapter.

History. Acts 1991, No. 212, § 2; 1991, No. 216, § 2; 1997, No. 1132, § 37; 2003, No. 1332, § 3; 2003 (2nd Ex. Sess.), No. 49, § 1; 2019, No. 757, § 62; 2019, No. 910, § 1814.

Amendments. The 2019 amendment by No. 757 deleted (a)(2)(A) and rewrote the former introductory language of (a)(2) and (a)(2)(B) as (a)(2).

The 2019 amendment by No. 910 substituted “Division of Elementary and Secondary Education” for “Department of Education” in (a)(2); and substituted “division” for “department” in (a)(2)(A) [repealed] and (a)(2)(B) [rewritten].

6-45-105. Establishment of Arkansas Better Chance Program.

(a)(1)(A) The Division of Elementary and Secondary Education shall establish the Arkansas Better Chance Program to assist in the establishment and funding of the appropriate early childhood programs for children from birth through five (5) years of age.

(B) Within the Arkansas Better Chance Program there is established the Arkansas Better Chance for School Success Program for providing appropriate early care and education programs for children three (3) years of age and four (4) years of age as identified under § 6-45-108(a).

(2)(A) The Division of Elementary and Secondary Education shall award grants or contracts to appropriate early childhood programs selected by the Division of Elementary and Secondary Education in accordance with specified programmatic standards.

(B)(i) These standards will be developed by the Division of Elementary and Secondary Education, with the advice and assistance of the Arkansas Early Childhood Commission.

(ii) Standards for funding the Home Instruction for Parents of Preschool Youngsters (HIPPY) will be developed in conjunction with the Arkansas HIPPY Advisory Board.

(C) The Home Instruction for Parents of Preschool Youngsters (HIPPY) regional technical assistance and training center shall be defined and funded as an integral part of the Home Instruction for Parents of Preschool Youngsters (HIPPY) to provide necessary training, technical assistance, and program support to program sites in Arkansas.

(b) The programmatic standards and other rules necessary for the implementation of the Arkansas Better Chance Program shall be adopted by the State Board of Education in accordance with the provisions of the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(c)(1) The Division of Elementary and Secondary Education may expend a maximum of two percent (2%) of available funds to administer the Arkansas Better Chance Program and to monitor Arkansas Better Chance Program grantees to ensure compliance with programmatic standards.

(2) The Division of Elementary and Secondary Education may contract with the Division of Child Care and Early Childhood Education to administer the Arkansas Better Chance Program.

History. Acts 1991, No. 212, § 1; 1991, No. 216, § 1; 1993, No. 923, § 1; 1997, No. 1132, § 38; 2003, No. 1332, § 4; 2009, No. 376, § 52; 2019, No. 315, § 332; 2019, No. 910, § 1815.

Amendments. The 2019 amendment by No. 315 deleted “and regulations” following “rules” in (b).

The 2019 amendment by No. 910 substituted “Division of Elementary and Secondary Education” for “Department of Education” in (a)(1)(A); substituted “The Division of Elementary and Secondary Education” for “Beginning with the 1991-1992 school year, the Department” in (a)(2)(A); and substituted “Division of El-

ementary and Second Education” for “department” in (a)(2)(A), (a)(2)(B)(i), (c)(1), and (c)(2).

6-45-106. Application process — Allocation of funding.

(a)(1)(A)(i) Any early childhood program accredited and quality-approved by the Department of Human Services according to standards approved by the Division of Elementary and Secondary Education may apply for funding, regardless of the sponsorship of the program.

(ii) Local school districts may apply for funding to operate early childhood programs, not including public school kindergarten, but an appropriate early childhood program need not be affiliated with a school district in order to receive funding.

(B) All applications submitted by sectarian or sectarian-affiliated programs must first be reviewed to assure that any approval of funding will not result in a violation of the First Amendment to the United States Constitution.

(2)(A) A local-to-state match will be required in the ratio of forty to sixty (40:60), except that the Division of Child Care and Early Childhood Education may waive the requirement of the local-to-state match if:

(i) The school is in a district that has been classified by the State Board of Education as being in need of Level 5 — Intensive support; and

(ii) The Division of Child Care and Early Childhood Education determines that the school is unable to provide the local-to-state match requirement after the Division of Child Care and Early Childhood Education has assisted the school in identifying potential funding sources to provide local-to-state match requirements.

(B) The local match may consist of cash or appropriate in-kind services.

(b) In order to be considered, an application must contain all information required by the Division of Elementary and Secondary Education’s regulatory guidelines.

(c)(1) In allocating funding for the Arkansas Better Chance for School Success Program, priority consideration shall be given to a school located in a school district that is classified as in need of Level 5 — Intensive support.

(2) The goal of the state is to make available an Arkansas Better Chance for School Success Program for an additional one-fifth ($\frac{1}{5}$) of the qualifying students each year over a period of five (5) years, at which time programs shall be available in all schools statewide.

(3) The priority considerations for funding under the Arkansas Better Chance for School Success Program shall not affect the funding of the Arkansas Better Chance Program and shall not create any priority for funding the Arkansas Better Chance for School Success Program over the Arkansas Better Chance Program.

(4) Any programs given priority consideration under this subsection shall continue to receive priority funding as necessary to continue an established program even though the criteria under subdivision (c)(1) of this section no longer exist for that school district.

History. Acts 1991, No. 212, § 1; 1991, No. 216, § 1; 1997, No. 1132, § 39; 2001, No. 1183, § 1; 2003, No. 1105, § 5[2]; 2003, No. 1332, § 5; 2003 (2nd Ex. Sess.), No. 49, § 2; 2005, No. 1447, § 1; 2019, No. 757, §§ 63, 64; 2019, No. 910, §§ 1816-1819.

Amendments. The 2019 amendment by No. 757, in (a)(2)(A)(i), substituted “classified” for “designated”, “State Board of Education” for “Department of Educa-

tion”, and “in need of Level 5 – Intensive support” for “in academic distress”; deleted (c)(1)(A); and rewrote the former introductory language of (c)(1) and (c)(1)(B) as (c)(1).

The 2019 amendment by No. 910 substituted “Division of Elementary and Secondary Education” for “Department of Education” throughout the section.

6-45-107. Publication of funding availability and program criteria.

The Division of Elementary and Secondary Education shall annually provide notification to school districts and to other appropriate providers of the availability of funds under the Arkansas Better Chance Program and shall include in such notification the programmatic standards and criteria for determination of eligibility for funding under the program.

History. Acts 1991, No. 212, § 1; 1991, No. 216, § 1; 2019, No. 910, § 1820.

Amendments. The 2019 amendment

substituted “Division of Elementary and Secondary Education” for “Department of Education”.

6-45-108. Criteria for determining need.

(a)(1) All children three (3) years of age and four (4) years of age who are members of a family with a gross family income not exceeding two hundred percent (200%) of the federal poverty guidelines are eligible to attend an Arkansas Better Chance for School Success Program if there is an Arkansas Better Chance for School Success Program available in the school district where the child resides and if there is available space for the child to attend the Arkansas Better Chance for School Success Program.

(2) The Division of Elementary and Secondary Education and the Division of Child Care and Early Childhood Education may develop a fee schedule and establish eligibility based on family income for children who are not eligible under subdivision (a)(1) of this section, but priority enrollment shall be allowed to children eligible under subdivision (a)(1) of this section.

(b) The Division of Elementary and Secondary Education and the Division of Child Care and Early Childhood Education shall review various criteria for identifying and targeting the areas of the state with the greatest need for early childhood programs.

(c) The State Board of Education, with the advice and assistance of the Division of Child Care and Early Childhood Education, shall adopt

the appropriate criteria for identifying Arkansas children with the greatest need to participate in Arkansas Better Chance for School Success Program-funded early childhood programs.

History. Acts 1991, No. 212, § 1; 1991, No. 216, § 1; 2003, No. 1332, § 6; 2003 (2nd Ex. Sess.), No. 49, § 3; 2019, No. 910, § 1821.

Amendments. The 2019 amendment substituted “Division of Elementary and Secondary Education” for “Department of

Education” in (a)(2); substituted “Division of Elementary and Secondary Education” for “department” in (b); and substituted “Division of Child Care and Early Childhood Education” for “division” in (b) and (c).

6-45-109. Certification by Division of Child Care and Early Childhood Education.

(a) The Division of Child Care and Early Childhood Education shall certify childcare facilities which have an appropriate early childhood program, as defined in § 6-45-103. Certification numbers shall be issued to those childcare facilities that meet the applicable qualifications.

(b) Upon certification of the childcare facilities, the division shall provide a listing of all certified facilities and their certification numbers to the Secretary of the Department of Finance and Administration for the purpose of the income tax credit or refund provided for in §§ 26-51-502 and 26-51-507.

History. Acts 1993, No. 1268, § 2; 1995, No. 850, § 1; 1997, No. 1132, § 40; 2001, No. 413, § 1; 2019, No. 910, § 1822.

in (b), substituted “Secretary of the Department of Finance and Administration” for “Director of the Department of Finance and Administration”.

Amendments. The 2019 amendment,

6-45-110. Assessment.

(a)(1) The Division of Child Care and Early Childhood Education shall be responsible for assessment of students enrolled in the Arkansas Better Chance for School Success Program.

(2)(A) Assessment shall begin upon enrollment in the Arkansas Better Chance for School Success Program and continue until each child completes the fourth grade, so long as the child is enrolled in a public school in the state.

(B) The Division of Child Care and Early Childhood Education and the Division of Elementary and Secondary Education shall work cooperatively to ensure that the assessments are conducted as required by this section.

(b)(1) Children in the Arkansas Better Chance for School Success Program shall be assessed annually to provide an indication of each child’s progress towards school readiness.

(2) This annual assessment shall be directly aligned with the Arkansas Early Childhood Education Framework/Early Learning Guidelines and shall serve to promote curriculum development and instructional

methods that assist in achievement of the intended outcome of readiness for kindergarten.

(3)(A) The assessment shall address a child’s strengths, progress, and needs and shall serve as a central part of an effective early childhood program.

(B) The assessment will be used in making sound decisions about teaching and learning and to identify areas of concern that may require focused intervention.

(c)(1) A comprehensive research study shall be implemented to evaluate the Arkansas Better Chance for School Success Program to ensure that the Arkansas Better Chance for School Success Program goals and intended child outcomes are being achieved.

(2) The study shall be designed to use sound research-based evidence to determine whether the programs meet the expected standards of quality and whether they are achieving the intended child outcomes.

(3) This research shall include children entering the Arkansas Better Chance for School Success Program at ages three (3) and four (4) years and follow the children through completion of the fourth grade benchmark exams.

(d) Research results will be provided annually to the Governor, the Senate Committee on Education, and the House Committee on Education.

History. Acts 2003 (2nd Ex. Sess.), No. 49, § 4; 2019, No. 910, § 1823.

Amendments. The 2019 amendment, in (a)(2)(B), substituted “Division of Child

Care and Early Childhood Education” for “division” and substituted “Division of Elementary and Secondary Education” for “Department of Education”.

CHAPTER 46

ARKANSAS HIGH TECHNOLOGY TRAINING CENTER

SECTION.

6-46-101 — 6-46-502. [Repealed.]

6-46-101 — 6-46-502. [Repealed.]

A.C.R.C. Notes. The repeal of this chapter by Acts 2019, No. 692, § 11, superseded the amendment of § 6-46-101 by Acts 2019, No. 910, § 1824. The amendment by Acts 2019, No. 910 substituted “Division of Workforce Services” for “Department of Career Education” in (c).

The repeal of this chapter by Acts 2019, No. 692, § 11, superseded the amendment of § 6-46-202 by Acts 2019, No. 910, § 1825. The amendment by Acts 2019, No. 910 substituted “Division of Career and Technical Education” for “Department of Career Education”.

The repeal of this chapter by Acts 2019, No. 692, § 11, superseded the amendment

of § 6-46-302 by Acts 2019, No. 315, § 333 and by Acts 2019, No. 910, § 1826. The amendment by Acts 2019, No. 315 deleted “and regulations” following “rules” in (a); and the amendment by Acts 2019, No. 910 substituted “Division of Career and Technical Education” for “Department of Career Education” in (a); and substituted “division” for “department” in (b).

The repeal of this chapter by Acts 2019, No. 692, § 11, superseded the amendment of § 6-46-303 by Acts 2019, No. 910, § 1827. The amendment by Acts 2019, No. 910, in (a), substituted “Division of Career and Technical Education” for “Department of Career Education” and “department”,

“State Board of Education” for “Career Education and Workforce Development Board”, and “Division of Career and Technical Education Fund Account” for “Department of Career Education Fund Account”; and substituted “Division of Career and Technical Education” for “department” in (b).

The repeal of this chapter by Acts 2019, No. 692, § 11, superseded the amendment of § 6-46-304 by Acts 2019, No. 910, § 1828. The amendment by Acts 2019, No. 910 substituted “Division of Career and Technical Education” for “Department of Career Education”.

The repeal of this chapter by Acts 2019, No. 692, § 11, superseded the amendment of § 6-46-401 by Acts 2019, No. 910, § 1829. The amendment by Acts 2019, No. 910 substituted “Division of Career and Technical Education” for “Department of Career Education” in (a) and (b).

The repeal of this chapter by Acts 2019, No. 692, § 11, superseded the amendment of § 6-46-402 by Acts 2019, No. 910, § 1830. The amendment by Acts 2019, No. 910 added “and the Department of Education” in (a); substituted “Division of Career and Technical Education” for “Department of Career Education” in (b); and substituted “division” for “department” in (d).

The repeal of this chapter by Acts 2019, No. 692, § 11, superseded the amendment of § 6-46-501 by Acts 2019, No. 910, § 1831. The amendment by Acts 2019, No. 910 substituted “Division of Career and Technical Education, the Division of Higher Education” for “Department of Career Education, the Department of Higher Education”.

The repeal of this chapter by Acts 2019, No. 692, § 11, superseded the amendment of § 6-46-502 by Acts 2019, No. 910, §

1832. The amendment by Acts 2019, No. 910 substituted “Division of Career and Technical Education” for “Department of Career Education”.

Publisher’s Notes. This chapter, concerning the Arkansas High Technology Training Center, was repealed by Acts 2019, No. 692, § 11, effective July 24, 2019. The chapter was derived from the following sources:

6-46-101. Acts 1993, No. 839, § 1; 1997, No. 540, § 1; 1999, No. 1323, § 27; 2019, No. 910, § 1824.

6-46-102. Acts 1993, No. 839, § 1.

6-46-201. Acts 1993, No. 839, § 2.

6-46-202. Acts 1993, No. 839, § 2; 2019, No. 910, § 1825.

6-46-203. Acts 1993, No. 839, § 2.

6-46-302. Acts 1993, No. 839, §§ 4, 8; 2019, No. 315, § 333; 2019, No. 910, § 1826.

6-46-303. Acts 1993, No. 839, §§ 4, 7; 2009, No. 376, § 53; 2019, No. 910, § 1827.

6-46-304. Acts 1993, No. 839, § 2; 2019, No. 910, § 1828.

6-46-401. Acts 1993, No. 839, § 5; 2019, No. 910, § 1829.

6-46-402. Acts 1993, No. 839, § 5; 2019, No. 910, § 1830.

6-46-501. Acts 1993, No. 839, § 6; 1997, No. 540, § 3; 2015 (1st Ex. Sess.), No. 7, § 70; 2015 (1st Ex. Sess.), No. 8, § 70; 2019, No. 910, § 1831.

6-46-502. Acts 1993, No. 839, § 6; 1995, No. 1296, § 32; 2019, No. 910, § 1832.

Former § 6-46-301, concerning the advisory board of directors, was repealed by Acts 2001, No. 783, § 2. The section was derived from Acts 1993, No. 839, § 3; 1997, No. 540, § 2. Acts 783, § 1 also provided that the advisory board of directors is “hereby abolished.”

CHAPTER 47

DISTANCE LEARNING

SUBCHAPTER.

2. DISTANCE LEARNING COORDINATION.

3. DISTANCE LEARNING IMPLEMENTATION.

4. ARKANSAS DISTANCE LEARNING DEVELOPMENT PROJECT ACT OF 2003.

5. DISTANCE LEARNING GRANTS.

SUBCHAPTER 2 — DISTANCE LEARNING COORDINATION

SECTION.

- 6-47-201. Administration in elementary schools.
- 6-47-202. Administration in two-year colleges.
- 6-47-203. Division of Elementary and

Secondary Education and Division of Higher Education — Cooperation, report, and implementation.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

6-47-201. Administration in elementary schools.

- (a) The Department of Education shall oversee and coordinate the implementation of distance learning in elementary and secondary public schools in the state.
- (b) The department shall promulgate rules establishing appropriate adult supervision.
- (c)(1) The elementary or secondary school may import courses from outside the state if the out-of-state course provider is approved by the department before the school offers the courses through distance learning.
- (2) A course offered through an approved out-of-state course provider under this subsection shall follow department course frameworks.
- (d) The courses offered through distance learning shall include, but not be limited to:
 - (1) College preparatory courses, including, but not limited to, calculus, physics, Arkansas history, foreign languages, and computer science; and
 - (2) Technological courses, including, but not limited to, advanced math and science courses, advanced computer skills courses, and advanced courses in the arts.
- (e) The department shall work with the Arkansas School for Mathematics, Sciences, and the Arts, the Arkansas Educational Television Commission, the education service cooperatives, and other state agencies involved in distance learning in implementing distance learning.

History. Acts 1999, No. 1083, § 1; 2009, No. 1469, § 25; 2019, No. 315, § 334.

Amendments. The 2019 amendment deleted “and regulations” following “rules” in (b).

6-47-202. Administration in two-year colleges.

(a) The Division of Higher Education shall oversee and coordinate the implementation of distance learning in two-year colleges, four-year institutions of higher education, and universities in the state.

(b) The Division of Career and Technical Education shall cooperate with the Division of Higher Education in implementing the provisions of this section.

History. Acts 1999, No. 1083, § 2; 2019, No. 910, § 1839[a].

Amendments. The 2019 amendment substituted “Division of Higher Education” for “Department of Higher Educa-

tion” in (a) and (b); and substituted “Division of Career and Technical Education” for “Department of Career Education” in (b).

6-47-203. Division of Elementary and Secondary Education and Division of Higher Education — Cooperation, report, and implementation.

(a) The Division of Elementary and Secondary Education and the Division of Higher Education shall work together to implement distance learning throughout the state.

(b) The Division of Elementary and Secondary Education and the Division of Higher Education shall present a report to the House Committee on Education and the Senate Committee on Education by December 31, 1999, reporting the status and progress of distance learning in Arkansas.

(c) The Division of Elementary and Secondary Education and the Division of Higher Education shall not be required to implement the provisions of this subchapter if funds are not made available.

History. Acts 1999, No. 1083, § 3; 2019, No. 910, § 1833.

Amendments. The 2019 amendment substituted “Division of Elementary and

Secondary Education” for “Department of Education” and “Division of Higher Education” for “Department of Higher Education” throughout the section.

SUBCHAPTER 3 — DISTANCE LEARNING IMPLEMENTATION

SECTION.

6-47-302. Implementation in elementary and secondary schools — Courses offered.

6-47-303. Coordination at institutions of higher education.

SECTION.

6-47-304. Division of Career and Technical Education to cooperate with Division of Elementary and Secondary Education and Division of Higher Education.

Effective Dates. Acts 2019, No. 910, § 6346(b); July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

6-47-302. Implementation in elementary and secondary schools — Courses offered.

(a) The Division of Elementary and Secondary Education shall plan for the statewide implementation of distance learning in elementary and secondary public schools in the state.

(b)(1) The elementary or secondary school may utilize courses from outside the state if the out-of-state course provider is approved by the Division of Elementary and Secondary Education or the Division of Career and Technical Education before the school offers the courses through distance learning.

(2) A course offered through an approved out-of-state course provider under this subsection shall follow Division of Elementary and Secondary Education course frameworks.

(c) The courses offered through distance learning may include college preparatory courses, advanced mathematics and science courses, and technological courses.

(d) The Division of Elementary and Secondary Education shall work with the Arkansas School for Mathematics, Sciences, and the Arts, the Arkansas Educational Television Commission, the education service cooperatives, the Arkansas State Library, and other state agencies involved in distance learning.

History. Acts 1999, No. 1298, § 2; 2009, No. 1469, § 26; 2019, No. 910, § 1834.

Amendments. The 2019 amendment substituted “Division of Elementary and

Secondary Education” for “Department of Education” throughout the section; and substituted “Division of Career and Technical Education” for “Department of Career Education” in (b)(1).

6-47-303. Coordination at institutions of higher education.

The Division of Higher Education shall coordinate the implementation of distance learning at the state’s public institutions of higher education.

History. Acts 1999, No. 1298, § 3; substituted “Department of Higher Education” for “Division of Higher Education”.
Amendments. The 2019 amendment

6-47-304. Division of Career and Technical Education to cooperate with Division of Elementary and Secondary Education and Division of Higher Education.

The Division of Career and Technical Education shall cooperate with the Division of Elementary and Secondary Education and the Division of Higher Education to implement distance learning throughout the state.

History. Acts 1999, No. 1298, § 4; substituted “Department of Education”, and “Division of Higher Education” for “Department of Higher Education” in the section heading and in the section.
Amendments. The 2019 amendment substituted “Division of Career and Technical Education” for “Department of Career Education”, “Division of Elementary

SUBCHAPTER 4 — ARKANSAS DISTANCE LEARNING DEVELOPMENT PROJECT ACT OF 2003

- SECTION.

6-47-403. Definitions.

6-47-404. Establishment and implementation.

6-47-405. Rules.
- SECTION.

6-47-406. Public school district and charter school distance learning program.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

6-47-403. Definitions.

- As used in this subchapter:
- (1) “Board” means the State Board of Education;
 - (2) [Repealed.]
 - (3) [Repealed.]
 - (4) “Distance learning” means an interactive telecommunications system that utilizes information technology, audio, video, and similar

technological elements, is compatible with other distance learning networks, and is used for the purpose of enhancing instructional opportunities in Arkansas public schools;

(5) “Infrastructure” means an interlinked system of wires, cables, fiber optics, or other wireline or wireless communications media;

(6) “Program” means the Arkansas Distance Learning Development Program; and

(7) “Public telecommunications” means the facilities used in providing telecommunication services to the public, including, but not limited to, facilities owned and operated by public utilities.

History. Acts 2003, No. 1192, § 2; **Amendments.** The 2019 amendment 2019, No. 910, § 1837. repealed (2) and (3).

6-47-404. Establishment and implementation.

(a) There is established the Arkansas Distance Learning Development Program, which shall be conducted by the Division of Elementary and Secondary Education and administered through the Commissioner of Elementary and Secondary Education.

(b) The program shall have four (4) focus areas:

(1) To help alleviate the increasing shortage of available qualified teachers;

(2) To provide additional course-scheduling opportunities for students currently forced to choose between courses that are scheduled infrequently or concurrently;

(3) To provide an opportunity for students to access an enriched curriculum and additional courses beyond those mandated by the Standards for Accreditation of Arkansas Public Schools and School Districts; and

(4) To develop and make available online professional development and instructional resources for all teachers and administrators.

(c)(1) The funding necessary to carry out the provisions of this subchapter may be derived from donations, grants, or legislative appropriation.

(2) The commissioner may solicit and receive donations and grants for the purpose of administering the program.

(3)(A) All donations, grants, and appropriations received shall be accounted for by the division.

(B) Fund balances may be carried over from one (1) year to the next to continue the program.

(d) The commissioner shall review the implementation of this program annually and make recommendations to the State Board of Education regarding the number and amount of awards to ensure that the purpose of the program is achieved.

(e) The commissioner may enter into contracts or provide grants to local education agencies, education service cooperatives, or other entities for personnel, facilities, and services necessary to implement this program.

(f) Students taking courses through this program shall be considered entitled to any public education credits and grades assigned through this program, and those credits and grades shall be accepted by all public schools in the State of Arkansas.

(g) Courses offered or taught through the program may be offered or taught to public school students, private school students, and home-schooled students in the State of Arkansas.

(h) A home-schooled student or a private school student enrolled in a distance learning course shall not be entitled to any rights, privileges, courses, activities, or services available to a public school student or open-enrollment public charter school student other than receiving appropriate credit for a completed distance learning course.

History. Acts 2003, No. 1192, § 2; 2005, No. 2121, § 18; 2005, No. 2325, § 1; 2007, No. 1573, § 40; 2019, No. 910, §§ 1838, 1839[b].

Amendments. The 2019 amendment, in (a), substituted “Division of Elementary

and Secondary Education” for “Department of Education” and “Commissioner of Elementary and Secondary Education” for “Commissioner of Education”; and substituted “division” for “department” in (c)(3)(A).

6-47-405. Rules.

The State Board of Education shall promulgate rules necessary for the implementation of this subchapter.

History. Acts 2003, No. 1192, § 2; 2019, No. 315, § 335.

deleted “and regulations” following “rules” in the section heading and in the section.

Amendments. The 2019 amendment

6-47-406. Public school district and charter school distance learning program.

(a) Except as provided in subsection (b) of this section, a public school district or open-enrollment public charter school may offer and teach distance learning courses to a student enrolled in a private school or a home school if:

(1) The student resides in the public school district where the public school or open-enrollment public charter school is located;

(2) The student agrees to physically attend the public school or open-enrollment public charter school for the purposes of taking state tests and assessments required for the particular course or courses taken by the student; and

(3) The public school or open-enrollment public charter school teaches or offers a distance learning course that has been approved by or otherwise complies with Division of Elementary and Secondary Education rules and standards governing distance learning courses.

(b) The State Board of Education shall adopt rules to allow the Commissioner of Elementary and Secondary Education to waive the requirements under subdivisions (a)(1) and (2) of this section on an individual basis for a student who is unable to attend due to conditions

that prevent the child from physically attending a public school or an open-enrollment public charter school.

(c)(1) A public school district or open-enrollment public charter school that teaches or offers a distance learning course to one (1) or more home-schooled or private school students who meet the conditions of subsection (a) or subsection (b) of this section shall be entitled to an amount equal to one-sixth ($1/6$) of the state foundation funding amount for each course taught to a private school student or home-schooled student.

(2) However, under no circumstances shall a public school district or open-enrollment public charter school be entitled to more than the equivalent of state foundation funding for one (1) average daily membership per student regardless of the number of distance learning courses received by a particular home-schooled or private school student.

(d) A home-schooled student or a private school student enrolled in a distance learning course shall not be entitled to any rights, privileges, courses, activities, or services available to a public school student or open-enrollment public charter school student other than receiving appropriate credit for a completed distance learning course.

(e) This section shall not be construed to entitle a home-schooled student or private school student to participate in, enroll in, or attend any other courses, activities, or services provided by a public school district or an open-enrollment public charter school.

(f)(1) Before a public school district or open-enrollment public charter school offers or teaches to public school students, home-schooled students, or private school students distance learning courses that are not part of the curriculum required by the Standards for Accreditation of Arkansas Public Schools and School Districts established by the state board, the open-enrollment public school district or public charter school first shall obtain approval of the distance learning courses by the division.

(2) A course offered under this subsection shall follow division course frameworks.

(g) No public school district or open-enrollment public charter school shall establish or provide a virtual school or distance learning course except as allowed by this section.

(h) This section shall not be construed to require a home-schooled student or private school student to take any test or assessment not specifically required for completion of the course for which the student is enrolled.

History. Acts 2005, No. 2325, § 2; 2009, No. 1469, § 27; 2017, No. 867, § 3; 2019, No. 910, §§ 1840-1842.

Amendments. The 2019 amendment substituted "Division of Elementary and Secondary Education" for "Department of

Education" in (a)(3); substituted "Commissioner of Elementary and Secondary Education" for "Commissioner of Education" in (b); and substituted "division" for "department" in (f)(1) and (f)(2).

SUBCHAPTER 5 — DISTANCE LEARNING GRANTS

SECTION.

6-47-502. Distance learning grants.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019".

6-47-502. Distance learning grants.

(a)(1) The Division of Elementary and Secondary Education shall develop grant standards and provide grants to education service cooperatives for acquiring equipment and receiving telecommunications services necessary for each school district to have distance learning availability.

(2) The grants shall be used to assist school districts that do not have distance learning capabilities and to assist school districts in upgrading existing distance learning capabilities.

(3) The grants shall also be used by the education service cooperatives to provide technical assistance to the school districts in implementing and maintaining distance learning as an educational tool.

(b)(1) The Division of Elementary and Secondary Education shall:

(A) Establish, by rule, standards for eligible equipment and telecommunications services; and

(B) Oversee the efficient operation and use of the system pursuant to law.

(2) Each school district shall have adequate connectivity to provide quality of service for distance learning.

(3) The distance learning technical protocol or protocols shall be in alignment with technical standards set by the Director of the Division of Information Systems.

(c) Education service cooperatives and school districts shall coordinate with the Division of Elementary and Secondary Education to seek to obtain the benefits of the Federal Communications Commission's E-rate program.

History. Acts 2003 (2nd Ex. Sess.), No. 34, § 1; 2007, No. 617, §§ 32, 33; 2007, No. 751, § 4; 2019, No. 910, § 1843.

Amendments. The 2019 amendment substituted “Division of Elementary and Secondary Education” for “Department of

Education” in (a)(1) and the introductory language of (b)(1); substituted “Division of Information Systems” for “Department of Information Systems” in (b)(3); and substituted “Division of Elementary and Secondary Education” for “department” in (c).

CHAPTER 48
ALTERNATIVE LEARNING ENVIRONMENTS

SECTION.

- 6-48-101. Definitions.
- 6-48-102. Alternative learning environment required — Reporting.

SECTION.

- 6-48-104. Division of Elementary and Secondary Education responsibilities.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

6-48-101. Definitions.

As used in this chapter:

- (1)(A)(i) “Alternative learning environment” means an alternate class or program within a public school or school district that affords all students an environment that seeks to eliminate barriers to learning for any student whose academic and social progress is negatively affected by the student’s personal characteristics or situation.
- (ii) The Division of Elementary and Secondary Education shall by rule more fully define the student’s personal characteristics and situations applicable under this chapter.
- (B) An alternative learning environment is not a punitive environment but one that is conducive to learning.
- (C) An alternative learning environment is not a separate school for the purposes of this title even if the division assigns the alternative learning environment a separate local education agency number; and
- (2) “Intervention services” means activities within or outside a school that will eliminate traditional barriers to learning.

History. Acts 2011, No. 1118, § 4; 2015, No. 846, § 35; 2019, No. 910, § 1844.

Amendments. The 2019 amendment substituted “Division of Elementary and

Secondary Education” for “Department of Education” in (1)(A)(ii); and substituted “Division of Elementary and Secondary Education” for “department” in (1)(C).

6-48-102. Alternative learning environment required — Reporting.

(a)(1) A school district shall provide one (1) or more alternative learning environments for all students who meet the minimum criteria established by the Division of Elementary and Secondary Education.

(2) A school district complies with this section if the school district provides an alternative learning environment by one (1) or more of the following methods:

(A) Establishes and operates an alternative learning environment;

(B) Cooperates with one (1) or more other school districts to establish and operate an alternative learning environment;

(C) Uses an alternative learning environment operated by an education service cooperative established under The Education Service Cooperative Act of 1985, § 6-13-1001 et seq.; or

(D) Partners with a state-supported institution of higher education and technical institutes to provide concurrent courses or technical education options for academic learning to students in grades eight through twelve (8-12).

(b) Annually, a school district shall submit to the division:

(1) Information on race and gender of the students educated in the alternative learning environment;

(2) Any other information regarding students educated in alternative learning environments that the division requires by rule; and

(3) An assurance statement that the school district is in compliance with this chapter.

History. Acts 2011, No. 1118, § 4; 2015, No. 994, § 2; 2019, No. 910, §§ 1845, 1846.

Amendments. The 2019 amendment substituted “Division of Elementary and

Secondary Education” for “Department of Education” in (a)(1); and substituted “division” for “department” in the introductory language of (b) and in (b)(2).

6-48-104. Division of Elementary and Secondary Education responsibilities.

(a) The Division of Elementary and Secondary Education shall promulgate rules to implement this chapter, including without limitation rules that establish:

(1)(A) The criteria for distributing state funding for alternative learning environment programs.

(B) The criteria shall identify the characteristics of students who may be counted for the purpose of funding an alternative learning environment program including without limitation that a student is educated in the alternative learning environment for a minimum of twenty (20) consecutive days.

(C) If a student is educated in the alternative learning environment for fewer than twenty (20) days, the division may provide funding to a school district based on the actual number of days the student is educated in the alternative learning environment if the student:

(i) Leaves the school district to transfer to another alternative learning environment; or

(ii) Is placed in a residential treatment program;

(2)(A) The criteria for teacher training for teachers in alternative learning environments, including without limitation:

(i) In-service training in classroom management; and

(ii) Training in additional areas related to the specific needs and characteristics of students who are educated in alternative learning environments.

(B) The division shall award professional development credit for the training under this subdivision (a)(2); and

(3) Measures of effectiveness for alternative learning environments that measure:

(A) For the students educated in the alternative learning environment the effect on the students':

(i) School performance;

(ii) Need for intervention; and

(iii) School attendance and dropout rate; and

(B) Any other characteristic of alternative learning environments deemed necessary by the division.

(b)(1) As part of the division's accreditation review of a school district under § 6-15-202, the division shall evaluate each alternative learning environment to ensure that the alternative learning environment is:

(A) Established and operated in compliance with this chapter; and

(B) Effective under the measurements established by the division under this section.

(2) The division shall identify a school district's noncompliance with this chapter on the school district's annual report card.

(c) The division shall identify information concerning best practices for educating students in alternative learning environments and disseminate that information to teachers and administrators working in alternative learning environments.

(d) Annually by September 15, the division shall provide to the House Committee on Education and the Senate Committee on Education a report on:

(1) The information reported to it under § 6-48-102; and

(2) The effectiveness of alternative learning environments evaluated under this chapter.

History. Acts 2011, No. 1118, § 4; 2019, No. 910, § 1847.

Amendments. The 2019 amendment substituted "Division of Elementary and Secondary Education" for "Department of

Education" in the section heading and in the introductory language of (a); and substituted "division" for "department" throughout the section.

